

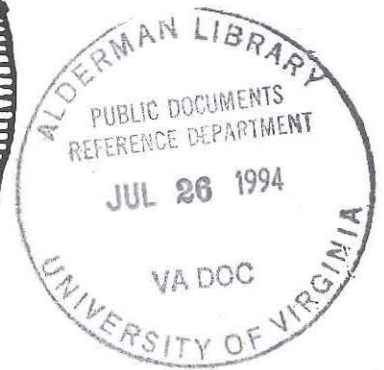
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THE VIRGINIA REGISTER

OF REGULATIONS

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VOLUME TEN • ISSUE TWENTY-ONE

July 11, 1994

1994

Pages 5311 Through 5494

VIRGINIA REGISTER

The *Virginia Register* is an official state publication issued every other week throughout the year. Indexes are published quarterly, and the last index of the year is cumulative.

The *Virginia Register* has several functions. The full text of all regulations, both as proposed and as finally adopted or changed by amendment are required by law to be published in the *Virginia Register of Regulations*.

In addition, the *Virginia Register* is a source of other information about state government, including all Emergency Regulations issued by the Governor, and Executive Orders, the *Virginia Tax Bulletin* issued periodically by the Department of Taxation, and notices of all public hearings and open meetings of state agencies.

ADOPTION, AMENDMENT, AND REPEAL OF REGULATIONS

An agency wishing to adopt, amend, or repeal regulations must first publish in the *Virginia Register* a notice of proposed action; a basis, purpose, impact and summary statement; a notice giving the public an opportunity to comment on the proposal, and the text of the proposed regulations.

Under the provisions of the Administrative Process Act, the Registrar has the right to publish a summary, rather than the full text, of a regulation which is considered to be too lengthy. In such case, the full text of the regulation will be available for public inspection at the office of the Registrar and at the office of the promulgating agency.

Following publication of the proposal in the *Virginia Register*, sixty days must elapse before the agency may take action on the proposal.

During this time, the Governor and the General Assembly will review the proposed regulations. The Governor will transmit his comments on the regulations to the Registrar and the agency and such comments will be published in the *Virginia Register*.

Upon receipt of the Governor's comment on a proposed regulation, the agency (i) may adopt the proposed regulation, if the Governor has no objection to the regulation; (ii) may modify and adopt the proposed regulation after considering and incorporating the Governor's suggestions, or (iii) may adopt the regulation without changes despite the Governor's recommendations for change.

The appropriate standing committee of each branch of the General Assembly may meet during the promulgation or final adoption process and file an objection with the *Virginia Registrar* and the promulgating agency. The objection will be published in the *Virginia Register*. Within twenty-one days after receipt by the agency of a legislative objection, the agency shall file a response with the Registrar, the objecting legislative Committee, and the Governor.

When final action is taken, the promulgating agency must again publish the text of the regulation, as adopted, highlighting and explaining any substantial changes in the final regulation. A thirty-day final adoption period will commence upon publication in the *Virginia Register*.

The Governor will review the final regulation during this time and if he objects, forward his objection to the Registrar and the agency. His objection will be published in the *Virginia Register*. If the Governor finds that changes made to the proposed regulation are substantial, he may suspend the regulatory process for thirty days and require the agency to solicit additional public comment on the substantial changes.

A regulation becomes effective at the conclusion of this thirty-day final adoption period, or at any other later date specified by the promulgating agency, unless (i) a legislative objection has been filed, in which event the regulation, unless withdrawn, becomes effective on the date specified, which shall

be after the expiration of the twenty-one day extension period; or (ii) the Governor exercises his authority to suspend the regulatory process for solicitation of additional public comment, in which event the regulation, unless withdrawn, becomes effective on the date specified which date shall be after the expiration of the period for which the Governor has suspended the regulatory process.

Proposed action on regulations may be withdrawn by the promulgating agency at any time before the regulation becomes final.

EMERGENCY REGULATIONS

If an agency determines that an emergency situation exists, it then requests the Governor to issue an emergency regulation. The emergency regulation becomes operative upon its adoption and filing with the Registrar of Regulations, unless a later date is specified. Emergency regulations are limited in time and cannot exceed a twelve-months duration. The emergency regulations will be published as quickly as possible in the *Virginia Register*.

During the time the emergency status is in effect, the agency may proceed with the adoption of permanent regulations through the usual procedures (See "Adoption, Amendment, and Repeal of Regulations," above). If the agency does not choose to adopt the regulations, the emergency status ends when the prescribed time limit expires.

STATEMENT

The foregoing constitutes a generalized statement of the procedures to be followed. For specific statutory language, it is suggested that Article 2 of Chapter 1.1:1 (§§ 9-6.14:6 through 9-6.14:9) of the Code of Virginia be examined carefully.

CITATION TO THE VIRGINIA REGISTER

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Sept. 28	Oct. 17
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Oct. 26	Nov. 14
Nov. 9	Nov. 28
Nov. 23	Dec. 12
Dec. 7	Dec. 26
Index 1 - Volume 11	

Dec. 21, 1994	Jan. 9, 1995
Jan. 4, 1995	Jan. 23
Jan. 18	Feb. 6
Feb. 1	Feb. 20
Feb. 15	Mar. 6
Mar. 1	Mar. 20
Index 2 - Volume 11	

Mar. 15, 1995	April 3, 1995
Mar. 29	April 17
April 12	May 1
April 26	May 15
May 10	May 29
May 24	June 12
June 7	June 26
Index 3 - Volume 11	

June 21, 1995	July 10, 1995
July 5	July 24
July 19	Aug. 7
Aug. 2	Aug. 21
Aug. 16	Sept. 4
Aug. 30	Sept. 18
Final Index - Volume 11	

TABLE OF CONTENTS

NOTICES OF INTENDED REGULATORY ACTION

Notices of Intent	5313
-------------------------	------

PROPOSED REGULATIONS

AUCTIONEERS BOARD

Rules and Regulations of the Virginia Auctioneers Board (REPEALING). (VR 150-01-2)	5316
--	------

Rules and Regulations for the Virginia Auctioneers Board. (VR 150-01-2:1)	5316
---	------

DEPARTMENT OF HEALTH (STATE BOARD OF)

Board of Health Regulations Governing Vital Records. (VR 355-29-100)	5326
--	------

DEPARTMENT OF MENTAL HEALTH, MENTAL RETARDATION AND SUBSTANCE ABUSE SERVICES (BOARD OF)

Public Participation Guidelines (REPEALING). (VR 470-01-01)	5338
---	------

Public Participation Guidelines. (VR 470-01-01:1)	5338
---	------

FINAL REGULATIONS

VIRGINIA ASBESTOS LICENSING BOARD

Asbestos Licensing Regulations (REPEALED). (VR 190-05-01)	5341
---	------

Virginia Asbestos Licensing Regulations. (VR 137-01-02)	5341
---	------

DEPARTMENT OF HEALTH (STATE BOARD OF)

Regulations Governing the Virginia Medical Scholarship Program. (VR 355-40-400)	5385
---	------

DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT (BOARD OF)

Virginia Certification Standards/1993. (VR 394-01-2)	5391
--	------

Virginia Statewide Fire Prevention Code/1993. (VR 394-01-6)	5399
---	------

Multifamily Loan Program. (VR 394-01-103)	5415
---	------

VIRGINIA HOUSING DEVELOPMENT AUTHORITY

Rules and Regulations - General Provisions for Programs of the Virginia Housing Development Authority. (VR 400-01-0001)	5420
---	------

Rules and Regulations for Single Family Mortgage Loans to Persons and Households of Low and Moderate Income. (VR 400-02-0003)	5424
---	------

BOARD OF SOCIAL WORK

Public Participation Guidelines. (VR 620-01-3)	5441
--	------

STATE CORPORATION COMMISSION

ADMINISTRATIVE LETTER

Revisions to VA CP-12 (6/94), VA CP-19 (6/94) and VA CP-20 (6-94). (1994-6)	5444
---	------

GOVERNOR

EXECUTIVE ORDERS

Establishing the Governor's Commission on Base Retention and Defense Adjustment. (12-94)	5451
--	------

Review of Regulations Proposed by State Agencies. (13-94)	5452
---	------

Review of Emergency Regulations Proposed by State Agencies. (14-94)	5456
---	------

Comprehensive Review of All Existing Agency Regulations. (15-94)	5457
--	------

The "Opportunity Virginia" Initiative: Developing a Strategic Plan for Jobs and Prosperity. (16-94)	5461
---	------

GOVERNOR'S COMMENTS

DEPARTMENT OF CRIMINAL JUSTICE SERVICES (CRIMINAL JUSTICE SERVICES BOARD)

Crime Prevention Specialists. (VR 240-04-4)	5462
---	------

DEPARTMENT OF EDUCATION (STATE BOARD OF)

Regulations for the Protection of Students as Participants in Human Research. (VR 270-01-0055) ..	5462
---	------

Table of Contents

DEPARTMENT OF GAME AND INLAND FISHERIES (BOARD OF)

Motorboat Numbering. (VR 325-04-2) 5462

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES (BOARD OF)

State Plan for Medical Assistance Relating to
Durable Medical Equipment. 5462
Amount, Duration and Scope of Services
(Supplement 1 to Attachment 3.1 A&B). (VR
460-03-3.1100) 5462
Standards Established and Methods Used to
Assure High Quality of Care (Attachment 3.1-C).
(VR 460-02-3.1300) 5462

DEPARTMENT OF SOCIAL SERVICES (STATE BOARD OF) AND CHILD DAY-CARE COUNCIL

General Procedures and Information for Licensure.
(VR 615-30-01 and 175-03-01) 5463

Standards and Regulations for Licensed Child Day
Center Systems. (VR 615-38-01 and 175-11-01) 5463

STATE WATER CONTROL BOARD

Water Quality Standards. (VR 680-21-00) 5463
Antidegradation Policy. (VR 680-21-01.3) 5463

THE LEGISLATIVE RECORD

HJR 101: Joint Subcommittee Studying the Financial
Impact of Third Party Reimbursement on the
Commonwealth's Pharmacies. 5464

HJR 9: Clean Fuels Study Subcommittee. 5465

HJR 353: A. L. Philpott Southside Economic
Development Commission. 5466

GENERAL NOTICES/ERRATA

DEPARTMENT OF LABOR AND INDUSTRY

Notice of Establishment of Negotiated Rulemaking
Committee: Safety Standards for Steel Erection. 5468

Steel Erection Negotiated Rulemaking Advisory
Committee. 5468

VIRGINIA CODE COMMISSION

Notice of mailing address. 5469

Forms for filing material on dates for publication. .. 5469

ERRATA

STATE WATER CONTROL BOARD

Virginia Pollutant Discharge Elimination System (VPDES)
General Permit Regulation for Storm Water Discharges
Associated with Industrial Activity from Heavy
Manufacturing. (VR 680-14-16) 5469

Virginia Pollutant Discharge Elimination System
(VPDES) General Permit Regulation for Storm
Water Discharge Associated with Industrial Activity
from Light Manufacturing Facilities. (VR 680-14-17) 5469

Virginia Pollutant Discharge Elimination System
(VPDES) General Permit Regulation for Storm
Water Discharges Associated with Industrial Activity
from Transportation Facilities, Landfills, Land
Application Sites and Open Dumps, Materials
Recycling Facilities, and Steam Electric Power
Generating Facilities. (VR 680-14-18) 5470

Public Participation Guidelines. (VR 680-41-01:1) 5470

CALENDAR OF EVENTS

EXECUTIVE

Open Meetings and Public Hearings 5471

LEGISLATIVE

Open Meetings and Public Hearings 5490

CHRONOLOGICAL LIST

Open Meetings 5491

Public Hearings 5493

NOTICES OF INTENDED REGULATORY ACTION

Symbol Key †

† Indicates entries since last publication of the Virginia Register

DEPARTMENTS OF EDUCATION; MENTAL HEALTH, MENTAL RETARDATION AND SUBSTANCE ABUSE SERVICES; SOCIAL SERVICES; AND YOUTH AND FAMILY SERVICES (BOARDS OF)

Notice of Intended Regulatory Action

Notice is hereby given in accordance with these agencies' public participation guidelines that the Boards of Education; Mental Health, Mental Retardation and Substance Abuse Services; Social Services; and Youth and Family Services intend to consider amending regulations entitled: **VR 270-01-003, VR 470-02-01, VR 615-29-02, VR 690-40-004. Standards for Interdepartmental Regulation of Residential Facilities for Children.** The purpose of the proposed action is to establish standards to provide children in residential facilities with at least a minimum level of care. The current effort is intended to promulgate requirements for background investigations as permitted by § 63.1-248.7:2 of the Code of Virginia. Requirements for conducting background investigations will be the only topic considered. No public hearing will be held on this regulatory action after publication.

Statutory Authority: §§ 16.1-311, 22.1-321, 37.1-10, 37.1-182, 37.1-189.1, 63.1-25, 63.1-196.4, 66-10, and 66-24 of the Code of Virginia.

Written comments may be submitted until July 27, 1994.

Contact: Rhonda M. Harrell, Assistant Coordinator, Office of the Coordinator, Interdepartmental Regulation of Children's Residential Facilities, 730 E. Broad St., 9th Floor, Richmond, VA 23219-1849, telephone (804) 692-1964.

V.A.R. Doc. No. R94-1028; Filed May 31, 1994, 2:16 p.m.



DEPARTMENT OF HEALTH (STATE BOARD OF)

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the State Board of Health intends to consider amending regulations entitled: **VR 355-28-300. Regulations for the Immunization of School Children.** The purpose of the proposed action is to

add the Hepatitis B vaccine to the list of vaccines required for children to be admitted to day care centers. The agency does not intend to hold a public hearing on this regulatory action after publication.

Statutory Authority: §§ 22.1-271.2, 32.1-12, and 32.1-46 of the Code of Virginia.

Written comments may be submitted until July 29, 1994.

Contact: A. Martin Cader, M.D., Director, Division of Communicable Disease Control, Department of Health, P.O. Box 2448, Richmond, VA 23218, telephone (804) 786-6261 or FAX (804) 786-1076

V.A.R. Doc. No. R94-1058; Filed June 8, 1994, 12:19 p.m.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the State Board of Health intends to consider amending regulations entitled: **VR 355-34-03. Regulations Governing Application Fees for Construction Permits for Onsite Sewage Disposal Systems and Private Wells.** The purpose of the proposed regulation is to provide a fee, as authorized by the General Assembly in § 32.1-164 of the Code of Virginia, for the issuance of letters indicating the appropriateness of a specific site for an onsite sewage disposal system. The agency intends to hold a public hearing on the proposed regulation after publication.

Statutory Authority: § 32.1-164 of the Code of Virginia.

Written comments may be submitted until July 15, 1994.

Contact: Donald J. Alexander, Director, Division of Onsite Sewage and Water, Department of Health, P.O. Box 2448, Suite 117, Richmond, VA 23218-2448, telephone (804) 786-1750, Internet address DAlexand@VDH.BITNET

V.A.R. Doc. No. R94-1022; Filed May 25, 1994, 11:04 a.m.

STATE COUNCIL OF HIGHER EDUCATION FOR VIRGINIA

Notice of Intended Regulatory Action

Notice is hereby given in accordance with agency's public participation guidelines that the State Council of Higher Education for Virginia intends to consider amending regulations entitled: **VR 380-01-00. Guidelines for Public Participation in the Development and Promulgation of**

Notices of Intended Regulatory Action

Regulations. The purpose of the proposed action is to amend the current language to change some unclear language and add language so that they follow the Administrative Process Act guidelines. The emergency regulations currently in place will expire June 29, 1994. The amendments to the former regulations will bring them into needed compliance with the Administrative Process Act. The agency does not intend to hold a public hearing on this regulatory action after publication.

Statutory Authority: §§ 9-6.14:7.1 and 23-9.6:1 of the Code of Virginia.

Written comments may be submitted until July 27, 1994.

Contact: Fran Bradford, Legislative Specialist, State Council of Higher Education for Virginia, 101 N. 14th St., 9th Floor, Richmond, VA 23219, telephone (804) 225-2613.

VA.R. Doc. No. R94-1048; Filed June 8, 1994, 8:32 a.m.

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES (BOARD OF)

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Medical Assistance Services intends to consider amending regulations entitled: **VR 460-02-4.1940. Methods and Standards for Establishing Payment Rates - Long-Term Care: NF Payoff and Refinancing Incentives.** The purpose of the proposed action is to provide an incentive of up to 50% of the total amount saved to providers who pay off existing loans and to limit the incentive for providers who refinance existing loans to a maximum of 50% of the total amount saved. The agency does not intend to hold public hearings on this issue.

Statutory Authority: § 32.1-325 of the Code of Virginia.

Written comments may be submitted until July 13, 1994, to Richard Weinstein, Manager, Division of Cost Settlement and Audit, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, VA 23219.

Contact: Victoria P. Simmons, Regulatory Coordinator, Department of Medical Assistance Services, 600 East Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 371-8850.

VA. R. Doc. No. R94-1000; Filed May 24, 1994, 10:24 a.m.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Medical Assistance Services intends to consider amending regulations entitled: **VR 460-10-2600. Deduction of Incurred Medical Expenses in Determining Countable Income (Spendown).** The purpose of the proposed action is to

promulgate regulations concerning the determination of countable income in determining Medicaid eligibility for medically needy individuals to conform to new federal regulations. This agency does not intend to hold public hearings regarding this regulatory action.

Statutory Authority: § 32.1-325 of the Code of Virginia.

Written comments may be submitted until July 13, 1994, to Ann Cook, Eligibility Consultant, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, VA 23219.

Contact: Victoria P. Simmons, Regulatory Coordinator, Department of Medical Assistance Services, 600 East Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 786-7933.

VA.R. Doc. No. R94-1019; Filed May 25, 1994, 11:31 a.m.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Medical Assistance Services intends to consider amending regulations entitled: **Methods and Standards for Establishing Payment Rates (all providers): Recovery of Overpayments.** The purpose of the proposed action is to prevent Medicaid providers who have terminated a participation agreement owing money to the program from restructuring and reenrolling in the program without making arrangements to repay all moneys owed to the program. This amendment conforms the State Plan to the Code of Virginia based on changes made in 1994. The agency does not intend to hold public hearings on this issue.

Statutory Authority: § 32.1-325 of the Code of Virginia.

Written comments may be submitted until July 13, 1994, to Richard Weinstein, Manager, Division of Cost Settlement and Audit, Department of Medical Assistance Services, 600 East Broad St., Suite 1300, Richmond, VA 23219.

Contact: Victoria P. Simmons, Regulatory Coordinator, Department of Medical Assistance Services, 600 East Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 371-8850.

VA.R. Doc. No. R94-1020; Filed May 25, 1994, 11:31 a.m.

BOARD OF MEDICINE

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Medicine intends to consider amending regulations entitled: **VR 465-09-1. Certification for Optometrists.** The purpose of the proposed action is to amend the optometric formulary. Although exempt from the Administrative Process Act, the

Notices of Intended Regulatory Action

board is required to publish its notice of intention to amend the list of therapeutic pharmaceutical agents in The Virginia Register. A public hearing will be held on July 22, 1994, at 10 a.m. at 6606 West Broad Street, Richmond, Virginia.

Statutory Authority: § 54.1-2957.2 of the Code of Virginia.

Contact: Eugenia K. Dorson, Deputy Executive Director, Board of Medicine, 6606 West Broad St., Richmond, VA 23230-1717, telephone (804) 662-9908 or (804) 662-7197/TDD ☎

VA.R. Doc. No. R94-999; Filed May 19, 1994, 10:07 a.m.

Written comments may be submitted until July 15, 1994.

Contact: David M. Vistica, Tax Policy Analyst, Department of Taxation, P. O. Box 1880, Richmond, VA 23282-1880, telephone (804) 367-0167.

VA.R. Doc. No. R94-1001; Filed May 20, 1994, 12:23 p.m.

BOARD OF PROFESSIONAL COUNSELORS

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Professional Counselors intends to consider promulgating regulations entitled: **VR 560-01-04. Regulations Governing the Certification of Rehabilitation Providers.** The purpose of the proposed action is to establish requirements for certification, criteria for examination and standards of practice for the certification of rehabilitation providers. The agency intends to hold a public hearing on the proposed regulation after publication.

Statutory Authority: §§ 54.1-2400 and 54.1-3510 of the Code of Virginia.

Written comments may be submitted until July 13, 1994.

Contact: Evelyn B. Brown, Executive Director, Board of Professional Counselors, 6606 West Broad St., 4th Floor, Richmond, VA 23230, telephone (804) 662-9912.

VA.R. Doc. No. R94-1021; Filed May 25, 1994, 11:08 a.m.

DEPARTMENT OF TAXATION

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department of Taxation intends to consider promulgating regulations entitled: **VR 630-3-439. Major Business Facility Job Tax Credit.** The purpose of the proposed action is to promulgate a new regulation which will provide guidance in the computation and recapture of the Major Business Facility Job Tax Credit. The credit was enacted by the 1994 Acts of Assembly (HB 1407; SB 606), effective for taxable years beginning on or after January 1, 1995. A public hearing will be held after publication of the proposed regulation.

Statutory Authority: § 58.1-203 of the Code of Virginia.

PROPOSED REGULATIONS

For information concerning Proposed Regulations, see information page.

Symbol Key

Roman type indicates existing text of regulations. *Italic type* indicates proposed new text. Language which has been stricken indicates proposed text for deletion.

AUCTIONEERS BOARD

Title of Regulation: VR 150-01-2. Rules and Regulations of the Virginia Auctioneers Board (REPEALING).

Title of Regulation: VR 150-01-2.1. Rules and Regulations of the Virginia Auctioneers Board.

Statutory Authority: §§ 54.1-201 and 54.1-602 of the Code of Virginia.

Public Hearing Date: September 20, 1994 - 9 a.m.

Written comments may be submitted through September 9, 1994.

(See Calendar of Events section for additional information)

Basis: Sections 54.1-201 and 54.1-602 of the Code of Virginia provide the Virginia Auctioneers Board with the legal authority to promulgate these regulations. Such promulgation in accordance with the Administrative Process Act (§ 9-6.14:1 et seq.) is necessary to assure continued competency, to prevent deceptive or misleading practices by practitioners and to effectively administer the regulatory system administered by the regulatory board.

Purpose: Pursuant to §§ 54.1-201 and 54.1-602 of the Code of Virginia, the Board for Auctioneers proposes to repeal its existing regulations governing auctioneers and auction firms and promulgate new regulations for the implementation of a licensure program necessary for the preservation of the health, safety, and welfare of the public in the Commonwealth of Virginia. These regulations will assure consistency and compliance with the amendments enacted to § 54.1-603 of the Code of Virginia which abolished the certification and registration program and allowed for the development of a licensure program. The proposed regulation establishes auctioneering terms, requirements for licensure, renewal, reinstatement, and standards of practice and conduct for auctioneers and auction firms.

Also, the board is adjusting fees for application, examination, and renewal in order to assure that the variance between revenues and expenditures for the board does not exceed 10% in any biennium as required by § 54.1-113 of the Code of Virginia. These regulations apply to approximately 1,313 licensed auctioneers and 190 licensed auction firms.

Substance: Legislative changes enacted to § 54.1-603 of the Code of Virginia allowed for the institution of a single

licensure program and abolished the registration and certification program originally required for auctioneers. The implementation of the proposed regulations will assure consistency and compliance with amendments enacted to § 54.1-603 of the statute.

Issues: The proposed licensure program addresses the following areas: entry requirements for licensure to include successful completion of auctioneering school, licensure examinations, licensure by reciprocity, standards of practice for auctioneers regarding advertising, contracts, escrow accounts, documentation, records, and the disciplinary actions for auctioneers and auctioneer firms violating the standards of conduct. By establishing such necessary and reasonable provisions, the public will be protected from those practitioners who may be in violation of the regulations.

The implementation of the new provisions will have a minimal impact on those auctioneers and auction firms currently licensed.

No potential disadvantages to the entities regulated or to the public have been identified.

Estimated Impact:

A. Numbers and types of regulated entities/persons affected.

These regulations apply to approximately 1,313 licensed auctioneers and 190 auction firms.

No localities particularly affected by the proposed regulations have been identified.

B. Projected costs to state for implementation and enforcement.

Costs are shown in the regulations in the form of fees for initial application, examination, renewal and reinstatement of licenses. The fees were established in accordance with § 54.1-113 of the Code of Virginia and were based on the current regulated population with approximately a 95% biennial renewal rate. The fees have been set to ensure sufficient revenues to cover expenses including administrative costs.

Cost of implementation of the new regulations is estimated to be limited to the costs of printing and mailing of the proposed and final regulations to those currently licensed and to those on the Public Participation Guidelines list. The board will notify all regulated entities and interested parties regarding the proposed regulations,

Proposed Regulations

the public hearing, and comment period by mail and will forward a copy of the proposal upon request. The final regulations will be distributed to all affected parties. The estimated total cost for printing and mailing is \$2,450.

C. Projected costs to regulated entities.

Fee increases include the following:

Fee Type	Increase
Application for (Individual/Reciprocal) License ..	\$ 70
Application for a Firm License	\$ 70
Examination Fee	\$ 70
Re-examination Fee	\$ 70
Renewal Fee (Individual)	\$ 60
Renewal Fee (Firm)	\$ 60
Late Renewal Fee (Individual)	\$ 60
Late Renewal Fee (Firm)	\$ 60
Reinstatement Fee (Individual)	\$120
Reinstatement Fee (Firm)	\$ 90

The board has also proposed a bad check fee (\$25) for those individuals whose checks are dishonored by the financial institutions and a certificate of licensure fee (\$25) for a licensee requesting a letter of good standing from the board. Currently, the board and the department absorb this cost.

D. Sources of funds to address fiscal impacts.

This program is fully supported through licensing and renewal fees.

New requirements for examination/licensure qualifications took effect July 1991. The requirements for certification registration have been abolished.

Summary:

The proposed regulations allow for the implementation of a licensure program for auctioneers and auction firms. The regulations provide definitions of auctioneering terms such as absolute auction, estate auction, reserve auction, regular business and owner which are applicable to the auctioneer industry. In addition, the proposed regulations establish entry requirements for licensure, which include successfully completing a course of study at a school of auctioneering approved by the board or having conducted at least 25 auctions within the past eight years at which the applicant has called the bids;

passing the auctioneers examination administered by the board; and providing evidence of a surety bond executed by a surety company authorized to do business in Virginia. The regulations allow individuals residing outside of Virginia to obtain a license by reciprocity provided an agreement has been established with that state and the requirements and standards under which the license was issued are substantially equivalent to Virginia's. Application procedures and examination content are also outlined in the proposed regulation.

Fees for initial application, examination, renewal and reinstatement of licenses have been established in accordance with § 54.1-113 of the Code of Virginia and are based on the current regulated population. Procedures regarding renewal, late renewal and reinstatement are addressed. Regarding renewal, licenses will be staggered and will expire two years from the date the license was issued. Verification of current surety bond will be required and must be provided to the board at the time of renewal.

The standards of practice section of the proposed regulation deals with advertising, contracts, conduct at auctions, documentation, escrow funds, record retention, the display of licenses, and procedures regarding changes of address. In reference to contracts, the regulations will require all auctioneers agreeing to conduct an auction to include the following in their contracts: a detailed list of the property received for sale; specific information on the auctioneer; the date, time and place of the auction; the fee or percentage of gross sales charged to the seller and what services are included in the fee; statement as to availability of the clerk sheets; and a statement as to the acceptance of the terms of the contract. Once the contract is executed a legible copy shall be given to the seller. In addition, auctioneers will be required to deposit proceeds in an auctioneer escrow account if they are not disbursed to the seller on auction day. Proceeds due to the seller shall be disbursed no later than 30 days after the date of each auction. If the goods are not sold at a single auction, then the auctioneer shall give notice as to the date of auction of the remaining personal or real property. The regulations outline in greater detail the specifics of auctioneer escrow accounts.

Finally, the proposed regulations address the standards of conduct for auctioneers and the boards means for fining, revoking, or suspending an individual or firm license for violating such provisions.

VR 150-01-2:1. Rules and Regulations for the Virginia Auctioneers Board.

PART I. DEFINITIONS.

§ 1.1. Definitions.

Proposed Regulations

The following words and terms, when used in these regulations, shall have the following meaning unless the context clearly indicates otherwise:

"Absolute auction" means an auction where at the time of the auction sale the real or personal property to be sold will pass to the highest bidder regardless of the amount of the highest and last bid.

"Auction" means the sale of goods or real estate by means of exchanges between an auctioneer and members of his audience, the exchanges consisting of a series of invitations for offers made by the auctioneer, offers made by members of the audience, and acceptance by the auctioneer of the highest or more favorable offer.

"Auctioneer" means any person who conducts or offers to conduct an auction.

"Auction firm" means any corporation, partnership or entity, except a sole proprietorship, performing any of the acts of an auctioneer as defined in this section.

"Board" means the Auctioneers Board.

"Director" means the Director of the Department of Professional and Occupational Regulation.

"Estate auctions" means the liquidation at auction of real or personal property of a specified person.

"Owner" means the bona fide owner of the real or personal property being offered for sale; in the case of a corporation, partnership, or other entity, except a sole proprietorship, an authorized officer, director, or partner may be deemed to be "owner" of the real or personal property being offered for sale, provided such entity is licensed to do business in the Commonwealth of Virginia.

"Person" means any natural person, association, partnership, or corporation, and the officers, directors, and employees of a corporation.

"Reserve auction" means the auctioneer reserves the right to reject any and all bids.

"Regular business" means recurring, routine, planned activities performed for profit by those persons, corporations, partnerships, entities, charitable, religious, fraternal or political and all other profit or nonprofit organizations who do not meet the exemptions of § 54.1-601 of the Code of Virginia.

PART II. ENTRY REQUIREMENTS.

§ 2.1. Licensure.

All persons or firms as defined in § 54.1-600 of the Code of Virginia who conduct auctions or offer their services to sell at auction in the Commonwealth are required to file a

licensure application and pay the specified fee to the board. Applicants for individual licensure shall meet the following requirements:

1. Be at least 18 years of age.

2. Shall not have been convicted within the past five years of a criminal offense related to auction activity in Virginia or any other jurisdiction. Any plea of nolo contendere shall be considered a conviction for purposes of this paragraph. The record of a conviction authenticated in such form as to be admissible in evidence under the laws of the jurisdiction where convicted shall be admissible as prima facie evidence of such conviction.

3. Successfully complete a course of study at a school of auctioneering which has obtained course approval from the board, or an equivalent course or conducted at least 25 auctions within the past eight years at which the applicant has called the bids; and has passed the Virginia Licensed Auctioneer's Examination, administered by the Auctioneers Board.

§ 2.2. Bond required.

All applicants shall submit evidence that a surety bond, executed by a surety company authorized to do business in the Commonwealth and in at least the amount of \$10,000 has been obtained. Proof of current bond must be submitted in order to obtain or renew the license. Bonds shall be for a term of two years and run concurrently with the two-year term of the license.

§ 2.3. License by reciprocity.

The board may issue a license to any applicant or active officer in a firm holding a license in any state, territory, or possession of the United States, with whom the board has established an act of reciprocity provided the requirements and standards under which the license was issued are substantially equivalent to those established by the board. At the time of application for licensure, the applicant must be currently licensed in the state in which reciprocity is established with the Commonwealth of Virginia.

Nonresident applicants shall also file with the board an irrevocable consent that service of process upon the director is valid and binding as the service of process upon the applicant.

§ 2.4. Application.

A. All applicants, corporations, firms, or active officers seeking licensure by reciprocity or examination shall submit a fully executed and notarized application with the appropriate fee or fees attached. Incomplete applications will be returned to the applicant. Applications for licensure by examination must be received by the Department of Professional and Occupational Regulation 45 days prior to

Proposed Regulations

a scheduled examination in order to be eligible to sit for that examination.

B. If a corporation, the application shall include certified true copies of the articles of incorporation, bylaws and charter, and, if a foreign corporation, a certificate of authority issued by the State Corporation Commission.

C. All applications will be reviewed by the Auctioneers Board staff to determine eligibility for examination and licensure within 30 days of receipt at the offices of the Department of Professional and Occupational Regulation. No applicant will be approved for licensure unless all requirements of this part of these regulations are met.

D. Applicants may appeal the initial application review to the board in writing within 60 days of the staff's determination.

§ 2.5. Examination.

The examination shall test the applicant's knowledge of the following:

1. The auction business including fundamentals of auctioneering, elementary principles of real estate, preparation of contracts, advertising, final settlement statements, arithmetic and percentages, and ethics.

2. The Virginia statutes entitled Auctioneers' Licensure Act, §§ 54.1-600 through 54.1-606 of the Code of Virginia; bulk transfers, §§ 8.6-101 through 8.6-111 and 8.2-328 of the Code of Virginia; sales tax laws, Title 58.1 of the Code of Virginia; and the rules and regulations of the board.

§ 2.6. Fees.

Fees are nonrefundable and shall not be prorated.

The following fees shall apply:

1. Individual auctioneer license\$170.
2. Auctioneer firm license\$195.
3. Examination\$140.
4. Reexamination fee\$140.
5. Renewal for individual auctioneer's license ..\$170.
6. Renewal for firm or corporation license\$195.
7. Late renewal for an individual auctioneer's license\$340.
8. Late renewal for an auction firm or corporate license\$390.
9. Reinstatement of the individual auctioneer's

license\$340.

10. Reinstatement of the firm or corporate license\$390.

11. Bad Check Fee\$25.

12. Certificate of Licensure (letter of good standing)\$25.

PART III. RENEWAL/REINSTATEMENT.

§ 3.1. Notice of renewal.

The Department of Professional and Occupational Regulation will mail a renewal notice to the licensee outlining the amount due and procedures for renewal. Failure to receive this notice shall not relieve the individual or firm licensee of the obligation to renew.

Licenses issued under these regulations shall be issued for a two-year period. Each license holder, corporation or firm shall be required to renew the license by submitting the proper fee made payable to the Treasurer of Virginia, with verification of current surety bond coverage as detailed in § 2.2 of these regulations.

§ 3.2. Failure to renew.

A. Any individual or firm licensee who fails to renew a license within one calendar month after the license expires, shall be required to pay a late renewal fee which shall be equal to twice the regular renewal fee.

B. Any individual or firm licensee who fails to renew his license within six calendar months after the expiration date of the license shall be required to apply for reinstatement of the license. The applicant shall submit to the Department of Professional and Occupational Regulation a reinstatement application and fee.

C. The date the renewal application is received by the Department of Professional and Occupational Regulation or its agent will determine whether a license will be renewed without penalty or will be subject to reinstatement requirements.

D. Auctioneer individual and firm licenses issued under this regulation shall expire 24 months from the last day of the month in which the license was issued as indicated on the license.

PART IV. STANDARDS OF PRACTICE.

§ 4.1. Advertising.

A. All advertising must be truthful. Advertising shall contain no false, misleading or deceptive statements, with respect to types or conditions of merchandise offered at

Proposed Regulations

auction, why merchandise is being sold, who has ownership, where the merchandise was obtained, or the terms and conditions of the auction and sale.

B. In all advertisements relating to an auction, the auctioneer's name and Virginia license number or the auction firm's name and Virginia license number shall be clearly displayed.

§ 4.2. Contracts.

When an auctioneer agrees to conduct an auction, a contract shall be drawn setting forth the particulars of the terms and conditions under which the auctioneer received the real or personal property for auction and particulars for the disbursement of the proceeds. Each contract for auction shall include the following:

1. A detailed list of the real or personal property received for sale. If a list cannot be made at the time of signing of the contract, then a list must be made a part of the contract (and attached) prior to auction of the real or personal property for that day.
2. The name, address, telephone number, and license number of the Virginia auctioneer or auction firm.
3. The name, address and telephone number of the seller.
4. The date, time and place of the auction or auctions at which the real or personal property is scheduled to be auctioned.
5. The fee or percentage of gross sales the auctioneer or auction firm will charge the seller and what services are included in the fee, such as preparation, travel, labor, advertising and any other auction related expenses.
6. By what date the seller is to be paid and the name of the individual who is responsible for disbursing the funds.
7. A statement that the clerk sheets, or other evidence to properly account for all items sold, shall be given or made available for inspection by the seller on a daily basis.
8. The following statement above the seller's signature line: "I have read and accepted the terms of this contract."
9. A legible executed copy of the contract shall be given to the seller at the time of execution.

§ 4.3. Conduct at auctions.

A. No auctioneer shall attempt to escalate bidding through false bids, or through collusion with another (shills). The auctioneer shall not bid on the seller's behalf

nor knowingly accept a bid made by the seller or made on the seller's behalf unless notice has been given that liberty for such bidding has been reserved.

B. If a licensed Virginia auctioneer or auction firm contracts with a nonlicensed (in Virginia) auctioneer, corporation or firm to conduct auctions in Virginia, the Virginia auctioneer, corporation or firm shall be considered the principal and shall assume full responsibility for the auction and auctioneers subcontracted.

§ 4.4. Display of license.

Auctioneers shall carry their pocket cards on their person and shall produce them upon request. Auction firms shall display their license in a conspicuous location at the address of record. The address of record shall not be a post office box as detailed in § 4.8 C.

§ 4.5. Documentation.

Upon completion of the auctioneer's or auction firm's service, each seller shall be given legible copies of bills of sale, clerk sheets, consignment sheets, settlement papers, balance sheets or other evidence to properly account for all items sold at auction.

§ 4.6. Escrow funds.

A. Proceeds of a personal property auction not disbursed to the seller on auction day shall be deposited in an auction escrow account by the auctioneer no later than the next banking day following the date of auction or sale of the goods, whichever occurs first.

B. Auctioneers shall use federally insured depositories in the Commonwealth of Virginia.

C. Proceeds due shall be disbursed to the seller no later than 30 days after the date of each auction.

D. Funds from a real estate auction shall be held in escrow until settlement in accordance with the agreement of sale.

E. If the sellers' personal or real property is not sold in a single auction, proceeds due shall be disbursed to the seller within 30 days after each auction. Notice must be given to the seller of tentative date of auction of the remaining personal or real property.

F. The auction escrow account shall be used solely for the preservation and guarantee of auction proceeds until disbursed at settlement. Funds for any other purpose shall not be commingled with the auction escrow account. Contingency accounts established to guarantee checks accepted on the sellers behalf shall not be considered commingling of funds. Moneys due to the auctioneer or auction firm shall not be withdrawn from the auction escrow account until final settlement is made with the

seller.

§ 4.7. Records.

The contract drawn with each seller; auction records, including but not limited to lists of buyers and their addresses; and clerk sheets showing the items sold including the buyers' numbers or names and the selling prices and the final settlement papers shall be retained for a period of four years from the date of settlement. These business records shall be available for inspection by the board or its designees as deemed appropriate and necessary.

§ 4.8. Change of address.

A. An auctioneer's or auction firm's license shall not be transferable and shall bear the same name and physical address as the business.

B. Written notice shall be given within 30 days to the board by each individual or firm licensee of any change of physical business address or location, whereupon the board shall issue an amended license without fee for the unexpired portion of the biennial period.

C. A post office box is not an acceptable physical business address.

PART V. STANDARDS OF CONDUCT.

§ 5.1. Discipline.

A. The board has the power to fine any individual or firm licensee, or to suspend or revoke any license issued under the provisions of Chapter 6 (§ 54.1-600 et seq.) of Title 54.1 of the Code of Virginia and the regulations of the board at any time after a hearing is conducted pursuant to the provisions of the Administrative Process Act (§ 9-6.14:1 et seq. of the Code of Virginia) if it finds that:

1. The license was obtained or renewed through fraud or misrepresentation;
2. The licensed auctioneer or firm has been found guilty by the board or by a court of any criminal offense or material misrepresentation in the course of performing his auctioneer duties;
3. The licensed auctioneer or firm has not demonstrated reasonable care, judgment, or application of his knowledge and ability in the performance of his auctioneering duties;
4. The license auctioneer or firm violated or induced another person to violate any provisions of Chapters 1, 2, 3, and 6 of Title 54.1 of the Code of Virginia, or any provisions of these regulations; or

5. The licensee, auction firm, or firm owner refuses or fails, upon request or demand, to produce to the board or any of its agents any document, book, or copy thereof in licensee's or owner's possession concerning the performance of auctioneering duties.

B. The board, in its discretion, may refuse to grant or renew a license of any person for any of the reasons specified in subsection A of this section.

VA.R. Doc. Nos. R94-1076 and R94-1077; Filed June 22, 1994, 11:43 a.m.



Commonwealth of Virginia
Auctioneers Board

Department of Professional & Occupational Regulation
P. O. Box 11066
Richmond, Virginia 23230-1106
(804) 367-8554

FOR OFFICE USE ONLY	
Pend.#	_____
Fee	_____
Class	_____
Us.#	_____
Date	_____
Code	_____

APPLICATION FOR A VIRGINIA AUCTIONEERS LICENSE

Please check one and submit appropriate fee: ☐ License by Reciprocity - \$170
☐ Firm License - \$195
☐ License by Examination - \$310

Make check or money order payable to the *Treasurer of Virginia*. All fees are nonrefundable.

PART I: TO BE COMPLETED BY ALL APPLICANTS

A. FULL NAME _____
 STREET ADDRESS _____
 CITY _____ STATE _____ ZIP _____
 RESIDENCE PHONE _____ BUSINESS PHONE _____
 DATE OF BIRTH _____ BIRTHPLACE _____
 SOCIAL SECURITY NUMBER _____ - _____ - _____
 RESIDENT OF _____ U.S. CITIZEN ☐ YES ☐ NO
 MAILING ADDRESS _____
 (if different from above)

PART II: COMPLETE THIS SECTION IF APPLYING FOR A FIRM LICENSE

A. FIRM'S LEGAL NAME _____
 If firm is incorporated, a copy of the certificate of authority from the State Corporation Commission (SCC) must be submitted with this application.
 TRADING-AS-NAME (if applicable) _____
 B. BUSINESS ADDRESS (location) _____
 C. BUSINESS PHONE _____ EMPLOYER ID# _____

D. List below, the name(s) of the Auctioneer(s) affiliated with your firm. Those listed must be Virginia licensed Auctioneers before a firm license will be issued.

NAME	LICENSE NUMBER
(1) _____	_____
(2) _____	_____
(3) _____	_____
(4) _____	_____

PART III: ALL APPLICANTS SHALL RESPOND TO THE FOLLOWING QUESTIONS

- Have you ever held an auctioneer or firm license in Virginia or in another jurisdiction? ☐ Yes ☐ No
 If yes, indicate below:
 As auctioneer _____
 State _____ From Mo./Yr. _____ To Mo./Yr. _____
 As firm _____
 State _____ From Mo./Yr. _____ To Mo./Yr. _____
- Are you an applicant for license by reciprocity? ☐ Yes ☐ No
 If yes, attach a letter from your State Licensing Board certifying that you are currently licensed as an auctioneer and in good standing. A copy of your license or pocket card is not acceptable.
 If no, attach a copy of diploma or certificate of completion from an approved school of auctioneering.
- Have you ever been denied an auctioneer license in the state of Virginia or any other state or jurisdiction? ☐ Yes ☐ No
 If yes, attach a separate statement giving complete details.
- Have you ever had an auctioneer license suspended, revoked or surrendered or have you ever been disciplined by the licensing authorities in Virginia or in any other state or jurisdiction? ☐ Yes ☐ No
 If yes, attach a separate sheet with complete details.
- Have you ever had any other business or professional license of any type suspended, revoked or surrendered in Virginia or in any other state or jurisdiction? ☐ Yes ☐ No
 If yes, attach a separate sheet giving complete details.
- Have you ever pleaded guilty, entered a plea of nolo contendere or been convicted of any criminal offense related to auction activity or is there any criminal charge now pending against you? ☐ Yes ☐ No
 If yes, attach a separate statement giving complete details.

Part III (cont.)

7. List present employer:

1. _____
 Name of Company Street City State
 Position: _____
 Duties: _____

8. Do you have an application for an auctioneer license pending before the Licensing Board? ☐ Yes ☐ No

9. Do you presently hold an auction firm license in the Commonwealth of Virginia or have you applied for one?
☐ Yes ☐ No

If yes, give: Name of Firm: _____
 License Number: _____

10. HAVE YOU READ THE COMMONWEALTH OF VIRGINIA CODE AND REGULATIONS OF THE AUCTIONEER LICENSING BOARD? ☐ Yes ☐ No

ALL APPLICANTS MUST HAVE THE BOND FORM, AFFIDAVIT AND ACKNOWLEDGEMENT OF SURETY AND ACKNOWLEDGEMENT OF PRINCIPAL ON THE FOLLOWING PAGES (PARTS IV-VI) EXECUTED BY A SURETY COMPANY.

PART IV: BOND FORM

Bond No. _____
 Effective Through: _____

KNOW ALL MEN BY THESE PRESENTS that _____
 _____ (name of auctioneer or firm)

located at _____, as
 Principal or Principals jointly and severally, and _____

_____, a corporation of _____
 _____, as surety are held and firmly bound unto the Commonwealth of Virginia in the full sum of Ten Thousand and No/100 Dollars (\$10,000.00), for which sum well and truly paid, said Principal(s) and Surety bind themselves, their heirs, executors, administrators, successors and assignees jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION IS SUCH that whereas, the Principal(s) have requested the licensure from the Virginia Auctioneers Board (the Board) pursuant to Virginia Code § 54.1-603 for the purpose of engaging in the business of conducting auctions, as defined in Virginia Code § 54.1-600 within the Commonwealth of Virginia;

NOW, THEREFORE, if the Principal(s) shall, during the period that this license is in effect, faithfully observe and honestly comply with the provisions of Title 54.1, Chapter 6, Code of Virginia (1950), as amended, regulations auctioneers; and if the Principal(s) shall pay all damages occasioned to any person by reason of any misstatement, misrepresentation, fraud or deceit of the Principal(s) or their agents or employees, then this obligation shall become void; otherwise it shall remain in force and effect; provided, however, that this Bond is issued subject to the following conditions and privileges:

1. (a) The surety shall have the right to cancel this bond at any time by written notice to the Board at the address of the Department of Professional and Occupational Regulation, at 3600 West Broad Street, Richmond, Virginia 23230, and to each Principal at the address given above.
- (b) The written notice shall state the effective date of the cancellation, and shall be personally served or sent by registered mail, return receipt requested.
- (c) The notice shall be served upon or received by the Board and the Principal(s) at least 60 days prior to the effective date of the cancellation.
2. (a) Should the notice of cancellation not be received by the Board and the Principal(s) at least 60 days prior to the effective date of cancellation, the cancellation shall become effective 60 days from the date of receipt by the Board and the Principal(s).

(Bond Form cont.)

- (b) Should the notice be received on different dates by the parties to this bond, the date of receipt by the Department of Professional and Occupational Regulation, as documented by the Postal Service, shall control the state of cancellation.
3. (a) This bond shall remain in full force and effect until cancelled as provided above.
- (b) It is expressly agreed and understood that the surety shall remain fully liable and default of breach under the terms of this Bond occurring at any time prior to the expiration of the Bond.
4. Any person aggrieved by any act of the Principal(s) in violation of the provisions of Title 54.1, Chapter 6, Code of Virginia (1950), as amended, may proceed against the Principal(s), or Surety, or both, to recover damages not in excess of the penalty of the bond.
5. In no event shall the Surety be liable for damages greater than the sum of this Bond.

IN WITNESS WHEREOF, the Principal(s) have hereunder affixed their signature(s) and seal, and the Surety has caused this document to be executed by _____, and is duly authorized Attorney-in-Fact, this _____ day of _____, 19____.

(Corporate Principal)

BY _____
(Individual Principal)

(Title)

(Corporate Surety) (SEAL)

BY _____
(Attorney-in-Fact)

(Title)

PART V: AFFIDAVIT AND ACKNOWLEDGEMENT OF SURETY

STATE OF _____

CITY OR COUNTY OF: _____

I, _____, a Notary Public in and for the _____ aforesaid, in the State aforesaid, do certify that _____ that _____ personally appeared before me in my _____ aforesaid and made oath that he is _____ of the _____ that he is duly authorized to execute the foregoing bond by virtue of a certain power of attorney of said company, dated _____ and recorded in the Clerk's office of the _____ of _____ in Deed Book No. _____, Page _____, that said power of attorney has not been revoked; that the said company has complied with all requirements of law regulating the admission of such companies to transact business in the State of Virginia; that said company is solvent and fully able to meet promptly all of its obligations, and the said _____ thereupon, in the name and on behalf of the said company, acknowledged and foregoing writing as its act and deed.

Subscribed and sworn to before me this _____ day of _____, 19 ____.

Signature of Notary Public: _____
My commission expires: _____

PART VI: ACKNOWLEDGEMENT OF PRINCIPAL

STATE OF: _____

CITY OR COUNTY OF: _____

I, _____, a Notary Public in and for the Commonwealth of Virginia, do certify that _____, whose name(s) is/are signed to the above bond, dated _____, 19 ____, personally appeared before me at _____, and acknowledged the same.

Sworn and subscribed to before me this _____ day of _____, 19 ____.

Signature of Notary Public: _____
My commission expires: _____

PART VII: IRREVOCABLE DESIGNATION OF AGENT FOR SERVICE OF PROCESS**ALL NON-RESIDENT APPLICANTS MUST COMPLETE THIS SECTION!****KNOW ALL MEN BY THESE PRESENTS:**

The undersigned, _____ (auctioneer/owner of firm), being an applicant for licensure as a non-resident Auctioneer of the Commonwealth of Virginia, does hereby irrevocably designate and appoint the Director of the Virginia Department of Professional and Occupational Regulation, as his (her, its) agent for the purpose of accepting service of any and all processes issued by any court located in the Commonwealth of Virginia, as well as service of all pleadings and other papers, relating in any way to any action, suit or legal proceeding arising out of or pertaining to his (her, its) duties or responsibilities as an Auctioneer in Virginia. The undersigned further consents, stipulates and agrees that any lawful process served upon aforesaid agent shall have the same legal force and validity as if served upon the undersigned personally with the State of _____ and that the authority contained herein shall continue in force and effect so long as any liability against the undersigned remains outstanding in the Commonwealth of Virginia.

This _____ day of _____, 19 ____.

Signature of Auctioneer/Owner of Firm

(If a corporation, a corporate seal must be affixed and a certified copy of the resolution by the proper officers or managing board, authorizing the member or office to execute the consent must be attached.)

PART VIII - AFFIDAVIT (To be executed by applicant before a notary public)

STATE OF _____

CITY/COUNTY OF _____

The undersigned, in making this application to the Virginia Auctioneers Board, swears or affirms that he or she is the applicant named herein and that the answers and information contained herein are true to the best of his or her knowledge and belief, that he/she has not withheld or suppressed any information that might affect this application, and that he/she has read and understands this affidavit.

Signature of applicant: _____

Signature of notary public: _____

Subscribed and sworn to before me this _____ day of _____, 19 ____.

My commission expires: _____

(SEAL)

Proposed Regulations



DEPARTMENT OF HEALTH (STATE BOARD OF)

Title of Regulation: ~~VR 355-29-01~~ VR 355-29-100 . Board of Health Regulations Governing Vital Records.

Statutory Authority: § 32.1-273 of the Code of Virginia.

Public Hearing Date: August 1, 1994 - 10 a.m.

Written comments may be submitted through September 9, 1994.

(See Calendar of Events section for additional information)

Basis: The regulations are promulgated under authority of § 32.1-273 of the Code of Virginia. This section allows the Board of Health to prescribe a fee for a certification of a vital record or for a search of the files or records when no certification is made and to establish a reasonable fee schedule related to its cost for information or other data provided for research, statistical or administrative purposes.

Purpose: The purpose of these regulations is to amend the fee charged for vital records certifications from \$5.00 to \$8.00 as required by SB 402 passed by the 1994 General Assembly. As intended by the legislature, the increased revenue will enable the Virginia Department of Health to expedite full automation of the state's system of vital records and decentralization of birth certification issuance from the Central Office in Richmond to local health district offices. This, in turn, will result in improved response time in processing requests from Virginia residents requesting certifications of vital records.

Substance: The substance of this regulation is simply to raise the fees for search and/or certification of vital records from \$5.00 each to \$8.00 each.

Issues: The primary advantage to the public of the proposed increase in fee is a decrease in waiting time to obtain a vital record. While there is a disadvantage to the public in raising the fees, the advantage of improved service outweighs the increased cost to the public. The proposed \$8.00 fee remains below that charged by most neighboring states for similar services.

Estimated Impact:

The number of persons affected each year would be about 600,000, which is the approximate number who purchase certifications of birth and death through the state Department of Health annually. All localities will be equally affected by the regulations.

The projected cost to the regulated entities will be a

60% increase over the current fee (from \$5.00 to \$8.00). It is estimated that fee revenue will increase by \$900,000 in Fiscal Year (FY) 1995 (assuming that the fee increase is implemented April 1, 1995) and by \$3,600,000 in FY 1996. Changes to the Code of Virginia made by SB 402 eliminate the provision that \$3.00 of every fee per certification collected by the State Registrar be returned to the general fund of the state treasury. To offset the loss of this funding source, \$225,000 in general funds in FY 1995 and \$900,000 in general funds in FY 1996 will be eliminated from the agency's budget.

There should be no additional cost to the department for implementation. The collection of fees for certifications was included in the initial legislation enacted in 1912 and has existed without interruption since.

The beneficial impact of the regulation is to provide a mechanism for funding both the automation of the vital records and the ongoing operation of the program. If the amount of requests should suddenly increase, more operational funds resulting from increased fee revenue can be made available immediately to offset the expenses that would be incurred to handle the increase. From the public's standpoint, improved response time in obtaining a vital record will result.

The current fees were established more than 10 years ago and do not cover the costs of operation of the system of vital records. In the absence of this proposed regulation, delays in services such as routine issuance of certifications and amendments to vital records will continue to grow.

The estimated impact of the proposed regulation upon small businesses as defined in § 9-199 of the Code of Virginia is negligible, if at all, since small businesses are not usual clients of the vital records certification program.

Fees for vital records have been in effect since 1912, and clients of the program are attuned to the fact that fees must be collected to have services rendered. This appears to be the most effective and least burdensome alternative that fully meets the stated purpose of the proposed regulation.

The effectiveness of the proposed regulation will be evaluated within the first quarter of the fiscal year in which the increased fees become effective.

Summary:

Section 32.1-273 of the Code of Virginia authorizes the Board of Health to prescribe a fee, not to exceed \$5.00, for searching and certification of vital records of birth, death, marriage, and divorce. Senate Bill 402, passed by the 1994 General Assembly, raises the maximum limit on vital records fees to \$8.00. Accordingly, the proposed regulations raise the current fee of \$5.00 to the new fee of \$8.00.

VR 355-29-100. Board of Health Regulations Governing Vital Records.

PART I. GENERAL INFORMATION.

§ 1.1. Authority for regulations.

Chapter 7 of Title 32.1 of the Code of Virginia establishes the vital records and health statistics system in the Commonwealth. The Board of Health is directed to promulgate procedural rules for the conduct of activities under this chapter and to promulgate regulations.

§ 1.2. Purpose of regulations.

The board has promulgated these regulations to facilitate the vital record registration activities and health statistical services in a manner to ensure the uniform and efficient administration of the system. Required certificates, reports, and forms shall be prescribed, where feasible, to include data collected nationally for the benefit of all citizens. The protection of individual data from casual perusal is essential to the validity of the program as well as a desirable shield of sensitive personal information while providing health statistics for the protection of society as a whole.

§ 1.3. Administration of regulations.

These regulations are administered by ~~the following: the State Board of Health, the State Health Commissioner, and the State Registrar of Vital Records and Health Statistics.~~

A. State Board of Health.

The Board of Health is the governing body of the State Department of Health, which is the Vital Records and Health Statistics Agency. In this capacity, the board has the responsibility to promulgate, amend, and repeal, as appropriate, regulations necessary to implement the vital records and health statistics system, and to collect, catalog, and evaluate information reported to it.

B. State Health Commissioner.

The State Health Commissioner is the chief executive officer of the State Department of Health. The commissioner has the authority to act, within the scope of regulations promulgated by the board, for the board when it is not in session.

C. State Registrar of Vital Records and Health Statistics.

The State Registrar shall carry out the provisions of Chapter 7 of Title 32.1 of the Code of Virginia and the regulations of the board.

§ 1.4. Application of regulations.

These regulations have general application throughout

the Commonwealth.

§ 1.5. Effective date of regulations.

The amendments to these regulations are effective July 1, 1990.

§ 1.6. Application of Administrative Process Act.

Except where specifically provided otherwise by statute, the provisions of the Virginia Administrative Process Act, which is codified as Chapter 1.1:1 of Title 9 of the Code of Virginia, shall govern the adoption, amendment, modification, and revision, of these regulations, and the conduct of all proceedings hereunder.

§ 1.7. Powers and procedures of regulations not exclusive.

The board reserves the right to authorize any procedure for the enforcement of these regulations that is not inconsistent with the provisions set forth herein and the provisions of Chapter 7 of Title 32.1 of the Code of Virginia.

PART II. SUPPLIES AND FORMS.

§ 2.1. State Registrar.

The State Registrar shall prepare, print, and supply all blanks and forms to be used in registering, recording, and preserving data of vital records and health statistics or in otherwise carrying out the purpose of the statutes governing vital statistics. He shall prepare and issue such detailed instructions concerning use of all forms and supplies as may be required to secure the uniform observance of the statutes and the maintenance of an adequate system for the collection, registration, and preservation of data of vital records and health statistics throughout the Commonwealth.

§ 2.2. County and city registrars.

County and city registrars shall maintain an adequate supply of all forms and blanks as furnished by the State Registrar in order to furnish required forms and blanks to all registrars and reporting sources within their jurisdiction.

§ 2.3. Use of forms.

No forms other than those supplied by the State Registrar shall be used for vital event registration. All such forms, records, and reports are property of the Commonwealth of Virginia. As such, they shall be protected from unauthorized use, access, and distribution and shall be surrendered to the State Registrar or his representative upon demand.

PART III.

Proposed Regulations

DATA REQUIRED ON VITAL STATISTICS CERTIFICATES.

§ 3.1. Birth certificate items.

The certificate of birth to be used shall be:

1. Certificate of Live Birth, Commonwealth of Virginia, for current registrations, and shall contain the following items: child's full name; place of birth; usual residence of mother; sex of child; single or plural birth, and birth order of plural birth; date of birth; full name of father (except when mother is not married to the father); age of father (except when mother is not married to the father); birthplace of father (except when mother is not married to the father); full maiden name of mother; age of mother; birthplace of mother; certification of parent (if available); certification of attendant at the birth, including title, address and date signed; date the certificate was received by the registrar; registrar's signature; registration area and certificate numbers; state birth number; and supplemental confidential data to consist of the following items: medical record and social security numbers of the mother; medical record number of the child; hispanic origin, if any, and race of mother; education of mother; mother transferred prior to delivery; hispanic origin, if any, and race of father (except when mother is not married to the father); social security numbers of the father; education of father (except when mother is not married to the father); pregnancy history of mother, including date of last live birth and date of last other termination of pregnancy; date of last normal menses and physician's estimate of gestation; month of pregnancy prenatal care began; source of prenatal care; number of prenatal visits; birthweight of child in grams; mother married to father of child; Apgar score of child at one minute and five minutes; obstetric procedures and method of delivery; newborn conditions and congenital malformations or anomalies of child, if any; infant transferred; medical history for this pregnancy; other history for this pregnancy; and events of labor and delivery. An optional item for the parent to request the State Registrar to report the birth to the Social Security Administration for account number issuance may be added to the Certificate of Live Birth if the State Registrar and the Social Security Administration develop procedures for such.

2. Delayed Certificate of Birth, Commonwealth of Virginia, for delayed registrations, and shall contain the following items: full name at time of birth; sex; place of birth; date of birth; name of father (except when mother was not married to father at the time of birth or during the 10 months next preceding the birth); race of father (except when mother was not married to the father); birthplace of father (except when mother was not married to the father); full maiden name of mother; race of mother; birthplace of mother; certification and signature of applicant;

address of applicant; relationship of applicant to registrant; statement and signature of notary public (or other official authorized to administer oaths); description of documentary evidence submitted; certification and authorized signature of the State Registrar; date certificate filed by the State Registrar; and number of certificate.

§ 3.2. Death certificate items.

The certificate of death to be used shall be the Certificate of Death, Commonwealth of Virginia, and shall contain the following items: full name of decedent; place of death; usual residence; date of death; sex; hispanic origin, if any, and race; education; date of birth; age; birthplace; citizenship; usual occupation and industry; veteran status; social security number; father's name; mother's maiden name; marital status and name of spouse, if married or widowed; informant's name; medical certification of cause of death; autopsy; if female, was there a pregnancy during past three months; and supplementary data concerning death due to external causes; certification of attending physician or medical examiner, including title, address, and date signed; disposition of the body; signature of funeral director or person legally filing this certificate; name and address of funeral home; date received by registrar; registrar's signature; registration area and certificate numbers; and state file number.

§ 3.3. Fetal death or induced termination of pregnancy report items.

The record of fetal death or induced termination of pregnancy to be used shall be:

1. The Report of Fetal Death Commonwealth of Virginia, and shall contain the following items for spontaneous fetal deaths: place of occurrence; usual residence of patient (mother); full maiden name of patient; medical record number and social security number of patient; hispanic origin, if any, and race of patient; age of patient; education of patient; sex of fetus; patient married to father; previous deliveries to patient; single or plural delivery and order of plural delivery; date of delivery; date of last normal menses and physician's estimate of gestation; weight of fetus in grams; month of pregnancy care began; number of prenatal visits; when fetus died; congenital malformations, if any; events of labor and delivery; medical history for this pregnancy; other history for this pregnancy; obstetric procedures and method of delivery; autopsy; medical certification of cause of spontaneous fetal death; signature of attending physician or medical examiner including title, address and date signed; method of disposal of fetus; signature and address of funeral director or hospital representative; date received by registrar; registrar's signature; registration area and report numbers.

2. The Report of Induced Termination of Pregnancy,

Commonwealth of Virginia, and shall contain the following items for induced terminations of pregnancy: place of occurrence; usual residence of patient; patient identification number; age of patient; hispanic origin, if any, and race of patient; education of patient; patient married to father; date of pregnancy termination; pregnancy history of patient; date of last normal menses and physician's estimate of gestation; type of termination procedures; pregnancy terminated because of genetic defect; signature, title, and address of person completing this report; registration area and report numbers.

§ 3.4. Marriage return and certificate items.

The record of marriage to be used shall be the Marriage Return and Certificate, Commonwealth of Virginia, and shall contain the following items: city or county of the court of issuance; court clerk's number; for the groom: full name, age, date and place of birth, race, marital status if previously married, number of marriage, education, usual residence, the names of parents; for the bride: full name, maiden name, age, date and place of birth, race, marital status if previously married number of marriage, education, usual residence, and names of parents; signature of clerk of court and date of license; date and place of marriage; whether civil or religious ceremony; certification and signature of officiant indicating title, address, and year and court of qualification; date received by clerk of court from officiant; and state file number.

§ 3.5. Report of divorce or annulment items.

The report of divorce or annulment to be used shall be the Report of Divorce or Annulment, Commonwealth of Virginia, and shall contain the following items: city or county of court of issuance; for the husband: full name, date and place of birth, race, education, number of marriage, usual residence; for the wife: full maiden name, date and place of birth, race, education, number of the marriage, usual residence; date and place of marriage; identity of plaintiff and to whom divorce granted; number and custody of children under 18 in this family; date of separation; date of divorce; legal grounds or cause of divorce; signature of attorney or petitioner; certification and signature of clerk of court indicating type of decree; court file number; date final order entered; and state file number.

PART IV. PREPARATION OF CERTIFICATES.

§ 4.1. Requirements for completion.

All certificates and records provided for in the statutes governing vital event registration shall be prepared on a typewriter with a black ribbon whenever possible or shall be printed legibly in black ink. All signatures required shall be entered in black ink. No certificate shall be considered as complete and correct and acceptable for

filing:

1. That does not supply all items of information called for thereon or satisfactorily account for their omission.
2. That contains alterations or erasures.
3. That does not contain original signatures.
4. That is marked "copy" or "duplicate."
5. That is a carbon copy.
6. That is prepared on an improper form.
7. That contains obviously improper or inconsistent data.
8. That contains any data relative to the putative father of a child born out of wedlock without his written consent or unless determined by a court of competent jurisdiction as required by § 32.1-257 of the Code.
9. That contains an indefinite cause of death denoting only symptoms of disease or conditions resulting from disease.
10. That is not prepared in conformity with these regulations or instructions issued by the State Registrar.

PART V. REGISTRATION DISTRICTS.

§ 5.1. Geographical areas.

For vital event registration purposes, the Commonwealth is hereby divided into registration districts as follows: Each independent city and each county shall constitute a registration district, provided that the State Registrar may designate special registration districts within cities and counties where necessary to facilitate registration.

§ 5.2. Registrars' representatives.

Each registrar for an independent city or county may appoint one or more representatives to act for the registrar after regular office hours. Such representatives may issue out-of-state transit permits as specified in Part X of these regulations.

PART VI. DUTIES OF REGISTRARS.

§ 6.1. Acceptance of certificates.

Each registrar shall examine certificates as they are submitted for registration to determine whether they have been prepared in accordance with the provisions of the statutes, regulations, and instructions. unsatisfactory, it shall

Proposed Regulations

be the duty of the registrar to notify the person responsible for the registration of its defects and to secure a complete and correct registration. Each registrar or his deputy shall note over his signature the date each certificate of birth, death, or report of fetal death was filed with him and shall number consecutively the certificates of birth, death, and fetal death in three separate series beginning with number 1 for the first certificate in each respective series in each calendar year.

§ 6.2. Local records.

On forms furnished by the State Registrar, each registrar shall record the following information from the original records before forwarding such original records to the State Registrar:

1. For birth records. The full name of the child; sex and race of child; date of birth; place of birth; names of parents; residence of parents; date filed; local certificate number; congenital malformations of child; and premature indicator.
2. For death records. The full name of the decedent; race and sex of decedent; date and place of death; residence of decedent; cause of death; date filed; and local certificate number.
3. For spontaneous fetal death records. Surname of family; race and sex of fetus; date and place of delivery; names and residence of parents; causes of death; date filed; and local report number.

§ 6.3. Reporting periods.

A. Special registrars shall, on the 5th day and the 20th day of each month, transmit all original certificates filed with them during the period preceding such dates to the city or county registrar having jurisdiction over the special registration district. If no birth, death, or fetal death was registered in any month, that fact shall be reported on the 5th day of the following month on a form provided for that purpose.

B. City and county registrars shall, on the 10th day and 25th day of each month, transmit to the State Registrar all complete original certificates filed with them or received by them from special registrars during the period preceding such dates. Each shipment of certificates sent by special registrars and by city and county registrars shall be accompanied by a transmittal form provided for that purpose.

§ 6.4. Promotion of registration.

Each registrar is to familiarize himself with the statutes, regulations, and instructions so that he may promote and stimulate complete and accurate registration. Lists of hospitals, physicians, medical examiners, funeral directors, and midwives should be maintained where necessary for reference purposes.

PART VII. FOUNDLING REGISTRATION.

§ 7.1. Procedure.

Whoever assumes custody of a living infant of unknown parentage shall on a blank certificate of live birth report the required facts. The certificate shall be plainly marked "foundling registration" in the top margin and data required will be determined by approximation. Parentage data shall be left blank, and the certification of the informant shall be signed by the custodian indicating title, if any. The item "Certification of the attendant," shall be signed by the physician who examines the foundling child. On the reverse of the form shall be listed the name and address of the persons or institution with whom such child has been placed for care and the date and place the child was found.

PART VIII. DELAYED BIRTH REGISTRATION.

§ 8.1. Late registration and delayed registration defined.

A. "Late registration." The registration of a nonrecorded birth after the statutory time prescribed for filing but within one year from the date of birth shall be a "late birth registration." As such, its filing shall be subject to the requirements of § 8.3 of these regulations but shall not be considered a "delayed registration."

B. "Delayed registration." The registration of a nonrecorded birth after one year from the date of birth shall be a "delayed birth registration."

1. For those births occurring more than one year but less than seven years prior to the date of filing, the birth registrations shall be prepared and filed on the certificate of live birth form in use at the time of birth and shall be plainly marked in the upper margin "delayed registration." Such certificates shall be subject to the requirements of § 8.3 of these regulations and not subject to § 8.4.

2. The registration of a nonrecorded birth seven or more years after the date of birth shall be a "delayed birth registration" and shall be registered by the State Registrar on special forms provided for such purposes and shall be subject to the requirements of § 8.4 of these regulations.

§ 8.2. Who may file a late or delayed birth certificate.

A person born in the Commonwealth of Virginia whose birth is not recorded, or his parent, guardian, legal representative, or an older person having knowledge of the facts of birth, may file a certificate of birth after the time prescribed for filing subject to the procedures and requirements established by these regulations and instructions issued by the State Registrar.

§ 8.3. Procedures and requirements for late birth registration and delayed birth registration within seven years of date of birth.

A. Late birth registrations and delayed birth registrations filed within seven years of the date of birth shall be prepared and filed on the certificate of live birth form in use at the time of birth. To be acceptable for filing, the certificate must be signed by the physician or other person who attended the birth; or if the birth occurred in a hospital, the hospital administrator, or his designated representative, may sign the certificate; or if the physician or other person who attended the birth is not available, and the birth did not occur in a hospital, the certificate may be signed by one of the parents, provided that a notarized statement is attached to the certificate outlining the reason why the certificate cannot be signed by the attendant.

B. The State Registrar or the city or county registrar may require the presentation of additional evidence in support of the facts of birth or an explanation for the delay in filing in any case where there appears to him reason to question the adequacy of the registration.

§ 8.4. Procedure and requirements for delayed birth registration seven or more years after date of birth.

A. Application for a delayed birth registration after seven years have elapsed since the date of birth shall be made to the State Registrar and shall be filed according to instructions issued by the State Registrar. If a prior birth certificate is located for the registrant, a delayed birth certificate shall not be filed. The final acceptance of a delayed birth certificate for filing shall remain in a pending status until evidence is submitted in support thereof satisfactory to the State Registrar as outlined in subsection D of this section, or until one year from the date of application, in which event the application shall lapse.

B. The following facts concerning the person whose birth is to be registered must be established:

1. The full name of the person at the time of birth, except that the delayed certificate may reflect a name established by adoption or legitimation when such evidence is submitted.
2. The date and place of birth.
3. The names of the parents, except that if the mother of the child was not married to the father of the child at the time of birth, or during the 10 months preceding such birth, the name of the father shall not be entered on the delayed certificate unless the child has been adopted or legitimated, or parentage has been determined by a court of competent jurisdiction pursuant to § 32.1-257 of the Code of Virginia, or both natural parents present a sworn acknowledgement of paternity.

C. Delayed birth certificates shall be prepared on forms supplied by the State Registrar. Each such delayed certificate shall be signed and sworn to before an official authorized to administer oaths by the person whose birth is to be registered if such person is available and is competent to sign and swear to the accuracy of the facts stated therein; if not, the application shall be signed and sworn to by one of the parents, guardian, legal representative, or by an older person having knowledge of the facts of birth.

D. 1. The birth facts entered on the delayed certificate shall be supported by at least three pieces of documentary evidence; except that:

a. If one of the documents was established before the registrant's seventh birthday, only two such documents shall be required.

b. If the person whose birth is being registered is 15 years of age or under, only two such documents shall be required.

2. All documents used in evidence, such as insurance policy applications, marriage records, children's birth records, baptismal records, federal census abstracts, immunization records, and the like, shall be at least five years old, except that an affidavit of personal knowledge need not be five years old. Only one such affidavit of personal knowledge shall be used as a supporting document.

3. Facts of parentage need only be supported by one such document described above.

4. Documents shall be in the form of the original or certified or true copies thereof.

5. All documents, except the affidavit of personal knowledge, shall be returned to the applicant after review.

E. Whether delayed certificates and documentary evidence submitted conform with these regulations and are acceptable for filing shall be determined by the State Registrar. If, in his judgment, an applicant does not submit the documentation required in support of the facts of birth or if there appears reason to question the delayed registration, the delayed birth certificate shall not be accepted and the applicant shall be advised of its deficiencies.

1. If a delayed birth certificate is acceptable for filing, the State Registrar, or his designated representative, shall abstract on the delayed birth certificate form a description of each document submitted in support of the delayed registration, including the kind and title of the document; the name and relationship of the affiant if the document is an affidavit of personal knowledge; the date the document was originally established; and

Proposed Regulations

2. The State Registrar, or his designated representative, shall then enter the date of filing of the delayed registration, and by his signature thereto shall certify:

- a. That no prior birth certificate is on file for the person whose birth is to be registered.
- b. That the documentary evidence submitted to establish the facts of birth has been reviewed and is in conformity with the stated facts.

§ 8.5. Cancellation records.

When the State Registrar shall be satisfied that a late or a delayed birth certificate was obtained through fraud or misrepresentation, he shall give to the person named in the certificate a notice in writing of his intention to cancel said certificate. The notice shall give such person an opportunity to appear to show cause why the certificate should not be cancelled. The notice may be served on such person or in the case of a minor or incompetent to his parent or guardian by forwarding the notice by certified mail to his last known address on file in the Division of Vital Records and Health Statistics. Any appeal shall be governed by the provisions of the Virginia Administrative Process Act pursuant to Title 9, Chapter 1.1:1 of the Code of Virginia.

PART IX. NEW BIRTH CERTIFICATES AFTER ADOPTION, LEGITIMATION, ACKNOWLEDGEMENT OF PATERNITY, OR COURT DETERMINATION OF PATERNITY.

§ 9.1. Adoptions.

A. A new certificate of birth may be prepared by the State Registrar for a child born in Virginia and subsequently adopted through the courts of Virginia, the several states of the United States, or in a foreign country. An adoption report or certified copy of an adoption decree must be in the possession of the State Registrar together with a request that a new certificate be prepared.

B. A certificate of birth may be prepared by the State Registrar for a child born in a foreign country and subsequently adopted through a court in Virginia. An adoption report must be in the possession of the State Registrar together with a request that a Virginia registration of the birth be prepared. Such certificates shall not confer citizenship upon the child or the adoptive parents.

§ 9.2. Legitimation.

If the natural parents of a child shall marry after the birth of a child, a new certificate of birth may be prepared by the State Registrar for a child born in Virginia provided that the name of another man is not shown as the father on the original certificate. If another

man is so listed, a new certificate may be prepared only if a determination of paternity shall be ordered by a court of competent jurisdiction. An affidavit of paternity, executed subsequent to the birth of the child, by both natural parents and a certified copy of the parents' marriage record must be in the possession of the State Registrar together with a request that a new certificate be prepared.

§ 9.3. Acknowledgement of paternity.

A new certificate of birth may be prepared by the State Registrar for a child born out of wedlock in this Commonwealth upon receipt of a sworn acknowledgement of paternity, executed subsequent to the birth of the child, signed by both parents and a written request by both parents that the child's surname be changed or not be changed on the certificate to that of the father. If another man is shown as the father of the child on the original certificate, a new certificate may be prepared only when a determination of paternity is made by a court of competent jurisdiction.

§ 9.4. Court determination of paternity.

A new certificate of birth may be prepared by the State Registrar for a child born in this Commonwealth upon receipt of a certified copy of a court determination of paternity, together with a request from the natural mother or person having legal custody of said child that such new certificate be prepared. If the surname of the child is not decreed by the court, the request for the new certificate shall specify the surname to be placed upon the certificate.

§ 9.5. Change of sex.

A new certificate of birth may be prepared by the State Registrar for a person born in this Commonwealth whose sexual designation has been clarified or changed through medical or surgical procedure for cases including, but not limited to, hermaphroditism or pseudo-hermaphroditism. A certified copy of the court order changing the name of the registrant as well as designating the sex of the registrant must be in the possession of the State Registrar together with a request that a new certificate be prepared.

§ 9.6. New certificate.

The new certificate of birth prepared after adopting, legitimation, court determination of paternity, or acknowledgement of paternity shall be on the form in use at the time of birth and shall include the following items and such other information necessary to complete the certificate:

1. The name of the child;
2. The date and place of birth as transcribed from the original certificate;

3. The names and personal particulars of the adoptive parents or of the natural parents, whichever is appropriate;

4. The name of the attendant, printed or typed;

5. The birth number assigned to the original birth certificate;

6. The original filing date.

The information necessary to locate the existing certificate and to complete the new certificate shall be submitted on forms prescribed by the State Registrar.

§ 9.7. Sealed files.

After preparation of the new certificate, the existing certificate and the evidence upon which the new certificate was based are to be placed in a special file. Such file shall not be subject to inspection except upon order of a circuit court of this Commonwealth or by the State Registrar for purposes of properly administering the system of vital records and health statistics.

PART X.

PROCEDURES FOR FILING DEATH CERTIFICATES.

§ 10.1. A proper and complete medical certification of cause of death defined.

A complete and properly executed medical certification of cause of death shall mean the entry by a physician or medical examiner of a definite medical diagnosis of the underlying cause of death and related conditions following the instructions indicated on the death certificate. This may be variously:

1. Supported by clinical findings of the physician who attended the deceased for the illness or condition that resulted in death;
2. Supported by tentative clinical findings that may or may not be supported by the gross findings of an autopsy; or
3. Supported by autopsy findings where necessary to establish a definite medical diagnosis of cause of death.

In cases where an autopsy is to be performed, the physician or medical examiner shall not defer the entry of the cause of death pending a full report of microscopic and toxicological studies. In any case where the autopsy findings significantly change the medical diagnosis of cause of death, a supplemental report of the cause of death shall be made by the physician or medical examiner to the registrar as soon as the findings are available. (As examples: If it is clear that a patient dies of "cancer of the stomach," report the cause while a determination of the histological type is being carried out. Similarly, if it is

clear that a death is from "influenza," do not delay the medical certification while a laboratory test is being carried out to determine the strain).

§ 10.2. Responsibility of the attending physician.

When a patient shall die, the physician in charge of the patient's care for the illness or condition shall be responsible for executing and signing the medical certification of cause of death as follows:

1. If the physician is present at or immediately after the death, he shall execute and sign the medical certification of cause of death on the death certificate form prescribed by the State Registrar.

2. In an case where an autopsy is scheduled and the physician wishes to await its gross finding to confirm a tentative clinical finding, he shall give the funeral director notice that he attended the patient and when he expects to have the medical data necessary for the certification of cause of death. If the provisions of § 10.1 of these regulations cannot be adhered to, he shall indicate that the cause is "pending" and sign the certification. Immediately after the medical data necessary for determining the cause of death have been made known, the physician shall, over his signature, forward the cause of death to the registrar.

3. If the physician is unable to establish the cause of death or if a death is within the jurisdiction of the medical examiner, he shall immediately report the case to the local medical examiner and advise the funeral director of this fact. If the medical examiner does not assume jurisdiction, the physician shall sign the medical certification.

4. An associate physician who relieves the attending physician while he is on vacation or otherwise temporarily unavailable may certify to the cause of death in any case where he has access to the medical history of the case, provided that he views the deceased at or after death occurs and that death is from natural causes. In all other cases in which a physician is unavailable, the funeral director shall contact the medical examiner.

5. When the attending physician shall have given the person in charge of an institution authorization in writing, the person in charge of such institution, or his designated representative, may prepare the medical certification of cause of death in cases where all pertinent aspects of the medical history are a part of the official medical records and the death is due to natural causes. In such instances, the signature shall be that of a physician.

§ 10.3. Responsibility of the medical examiner.

When a medical examiner assumes jurisdiction in a death or when death occurs without medical attendance,

Proposed Regulations

the medical examiner shall be responsible for executing and signing the medical certification of cause of death as follows:

1. The medical examiner shall, at the time of releasing a body to a funeral director or person who first assumes custody of a dead body, or as soon as practicable thereafter, execute and sign the medical certification of cause of death on the death certificate form prescribed by the State Registrar.

2. In any case where an autopsy is scheduled and the medical examiner wishes to await its gross findings to confirm a tentative clinical finding, he shall give the funeral director notice as to when he expects to have the medical data necessary for the certification of cause of death. If the provisions of § 10.1 of these regulations cannot be adhered to, he shall indicate that the cause is "pending" and sign the certification. Immediately after the medical data necessary for determining the cause of death have been made known, the medical examiner shall, over his signature, forward the cause of death to the registrar.

3. In any case where a death has been referred to the medical examiner because a physician in attendance is deceased or physically incapacitated and there was no associate physician, the medical examiner shall prepare and sign the medical certification of cause of death.

§ 10.4. Responsibility of the hospital or institution.

When a patient shall die in a hospital or institution, and the death is not under the jurisdiction of the medical examiner, the person in charge of such institution, or his designated representative, shall where feasible and where the cause of death is known, aid in the preparation of the death certificate as follows:

1. Place the full name of the deceased on the death certificate form and obtain from the attending physician the medical certification of cause of death.

2. If authorized in writing by the attending physician, the person in charge, or his designated representative, may prepare the medical certification of cause of death in cases where all pertinent aspects of the medical history are a part of the official hospital records and the death is due to natural causes. The signature shall be that of a physician.

3. Present the partially completed death certificate identified by the name and the complete medical certification to the funeral director.

4. In a case of long-term residence by a patient in a state institution, a death certificate including personal particulars of the deceased may be prepared for presentation to the funeral director.

§ 10.5. Responsibility of the funeral director.

Each funeral director who has been authorized to take custody of a dead human body shall exercise the following responsibilities with respect to the preparation and filing of the death certificate:

1. When he arrives to take custody of the body, he shall first ascertain whether an attending physician or local medical examiner has established the cause of death as follows:

- a. If a physician was present at or after the death, he shall obtain the medical certification of cause of death from such physician if the death is from natural causes. An associate physician or person in charge of an institution may prepare the medical certification as outlined in § 10.2 of these regulations.

- b. If a physician attended the deceased but did not complete the medical certification of cause of death, the funeral director shall immediately contact such physician in person or by telephone to be certain that he was the attending physician and to ascertain whether the physician is to assume responsibility for the medical certification or to refer the case to the medical examiner.

- c. When a medical examiner assumes jurisdiction in a death, or when death occurs without medical attendance, or when a physician in attendance is incapacitated, the funeral director shall obtain the signed medical certification of cause of death from the medical examiner as required by subdivision 3 of § 10.3 of these regulations.

2. The personal history of the deceased and the facts of the death shall be obtained from the best source possible. This source may be variously: a member of the immediate family of the deceased who possesses the necessary information; a hospital records custodian whose records contain the necessary information; or the local medical examiner having jurisdiction over a case. The name of the informant shall be entered on the death certificate. The facts required as to the manner and place of disposal of the body or its removal from the Commonwealth shall be entered over the signature of the funeral director. He shall personally sign the certificate and print or type the name of his firm.

3. Except as outlined in § 10.7 of these regulations, a satisfactory death certificate shall be filed with the city, county, or special registrar in the city or county where death occurred, or a dead body is found, prior to final disposal of the body or its removal from the Commonwealth, and within three days. In cases where a completed medical certification is not available when the funeral director takes possession of a body, he shall not move the body from the place of death

until so authorized by the local medical examiner or until the attending physician has advised him that death is from natural causes and the physician is able to prepare the medical certification of cause of death. In every case, the removal of a dead human body from the city or county of death is unlawful unless notice is given to the city, county, or special registrar by telephone or in person. Such notice shall consist of the name of the deceased, date and place of death, and the name of the attending physician or of the medical examiner, as the case may be, and, if the body is to be removed, the destination within the Commonwealth. Such notification shall be made during the next available business hours of the registrar following the time of death. After business hours, in independent cities and in designated counties, such notification shall be made immediately on assumption of custody of the deceased to the registrar's representative.

§ 10.6. Out-of-state transit permits.

A. The body of any person whose death occurs in Virginia or whose body shall be found dead therein shall not be removed from the Commonwealth unless an out-of-state transit permit on a form prescribed by the State Registrar has been issued by the city, county, or special registrar of the city or county where the death occurred or the body was found except as outlined in § 10.7 of these regulations.

B. No out-of-state transit permit shall be issued until a proper certificate of death is filed except as outlined in § 10.7 of these regulations.

C. A certificate of death shall be considered to be properly filed:

1. When all items thereon have been answered in the manner prescribed by the State Registrar; and
2. When the certificate has been presented for filing with the city, county, or special registrar of the city or county where the death occurred or the body was found, or, in emergency cases, with the city or county registrar of the area to which removal was made within the Commonwealth.

§ 10.7. Emergency cases: Filing of death certificates elsewhere.

A. Under the conditions of § 32.1-266 of the Code of Virginia, the following situations are declared to be proper reasons for emergency extensions of time periods for filing a completed death certificate:

1. A completed or "pending" medical certification is unavailable.
2. Personal data concerning the deceased is temporarily unavailable.

3. The body must be moved immediately out of the Commonwealth.

B. If one or more of the above situations exists and the conditions of subdivision 3 of § 10.5 of these regulations have been complied with by the funeral director when the body is to be moved, any authorized registrar, or registrar's representative, may issue an out-of-state transit permit. Such permit shall be issued upon application by a funeral director and the presentation by the funeral director, over his signature only, of a death certificate form complete in as many known details as possible.

C. The incomplete death certificate form originally furnished to the registrar as outlined in subsection B of this section is to be placed by the funeral director with a completed death certificate as soon as the missing data become known or the medical certification is obtained, or within 10 days, whichever occurs first.

D. Under emergency provisions and the conditions of subdivision 1 c of § 10.5 of these regulations, the death certificate may be filed with a registrar other than the registrar at the place of death. When a registrar of an area other than the place of death receives a completed death certificate, he shall not sign nor number the certificate, but shall make a notation in the left-hand margin indicating his name and whether or not an out-of-state permit has been issued. The registrar receiving the death certificate shall immediately forward the death certificate to the city or county registrar at the place of death.

§ 10.8. Forwarding "pending cause" death certificates.

A death certificate received by a city or county registrar which contains a signed medical certification of cause of death, but the cause is not complete by reason of a pending inquest, investigation, or autopsy should be sent to the State Registrar on the regular reporting date with completed records. If the cause of death is completed by the presentation of a second and complete certificate before the original certificate is sent to the State Registrar, the original incomplete certificate should be marked "VOID." The completed death certificate should be processed as a current certificate and should be forwarded to the State Registrar. If the cause of death is completed by a properly signed query form or other statement, the cause of death information may be added to the incomplete death certificate by the State Registrar.

§ 10.9. Disinterment permits.

A. Unless so ordered by a court of competent jurisdiction, a body shall not be disinterred for removal or transportation until an application for disinterment has been submitted to the city or county registrar or to the State Registrar.

B. The city or county registrar at the place from which disinterment is to be made shall issue a disinterment

Proposed Regulations

permit in triplicate. One copy shall be retained by the funeral director to whom issued, one copy filed with the sexton or person in charge of the cemetery in which disinterment is to be made, and one copy to be used during transportation and filed with the sexton or person in charge of the cemetery of reinterment. The State Registrar may issue a letter of authorization in lieu of individual permits when numbers of bodies are to be moved in one operation from the same place of disinterment to the same place of reinterment.

C. A disinterment permit shall not be required if a body is to be disinterred and reinterred in the same cemetery; however, the sexton or other person in charge of the cemetery shall establish a record relative to the facts of disinterment and reinterment within the cemetery.

D. A body kept in a receiving vault shall not be regarded as a disinterred body until after expiration of 30 days.

PART XI. CORRECTION AND AMENDMENT.

§ 11.1. Applications for correction.

A. After 30 days from the date of filing, no change or alteration in any birth or death certificate on file with the State Registrar or on file in any city or county of this Commonwealth shall be made except upon application to the State Registrar.

1. To change or alter a birth certificate, such application shall be made by the reporting source, one of the parents, guardian, or legal representative of the child, or, if the person whose certificate is involved is 18 years of age or over, by the person himself.

2. To change or alter a death certificate, such application shall be made by the surviving spouse or the next of kin of the deceased, attending funeral director, or other reporting source. Changes or alterations of the medical certification of cause of death may be requested only by the attending physician or by the medical examiner.

B. Within 30 days from the date of filing, missing data or corrected information may be entered on a birth or death certificate by the State Registrar or by the city or county registrar when the original record is in his possession.

1. Applications for changes or alterations may be made by persons outlined in subdivision A 1 or A 2 of § 11.1 of these regulations.

2. Missing or corrected data may be obtained at the initiative of the city or county registrar by personal call, telephone, or query form from the reporting source responsible for filing the birth or death certificate. Data so obtained by the registrar shall not

be deemed an amendment.

C. Marriage and divorce or annulment records on file with the State Registrar may be amended only by notification from the clerk of court in which the original record is filed. Such notification to the State Registrar shall indicate what items have been amended on the original record and shall indicate that the State Registrar's copy should be amended accordingly. Evidence required for amending marriage and divorce or annulment records shall be determined by the court in which the original record is filed.

§ 11.2. Evidence required for corrections or amendments.

Every application for a correction or amendment of a birth or death certificate shall be accompanied by appropriate documentary evidence as follows:

1. Except as provided in subdivisions 2 and 3 of this section, name changes, other than minor corrections in spelling involving the given names or surname of a registrant, or the given names or surnames of the parents or of a spouse as listed on a certificate, shall require that a certified or attested copy of a court order changing the name be obtained.

2. Within one year of birth, the given names listed on a birth certificate may be changed by the affidavit of:

- a. Both parents, or
- b. The mother in the case of a child born out of wedlock, or
- c. The father in the case of the death or incapacity of the mother, or
- d. The mother in the case of the death or incapacity of the father, or
- e. The guardian or agency having legal custody of the registrant.

3. In cases of hermaphroditism or pseudo-hermaphroditism, given names of a registrant may be changed on a birth certificate by affidavit of the parents or guardian as listed in subdivision 2 of this section, or by affidavit of the registrant if 18 years of age or older. Additionally, a statement from a physician must be submitted which certified the birth record of the registrant contains an incorrect designation of sex because of congenital hermaphroditism, pseudo-hermaphroditism, or ambiguous genitalia which has since been medically clarified.

4. Except as otherwise provided in the Code of Virginia or these regulations, after one year from the date of birth, any change of name shall be made only by court order, and any second change of name

within one year shall be made only by court order.

5. Within seven years after birth, given names may be added to a birth certificate where such information has been left blank by use of an affidavit only prepared by the parent, guardian, or legal representative of the child.

6. If the date of birth on a birth certificate is to be changed more than one year, a certified copy of a court order changing the date of birth shall be submitted.

7. In all other cases, an affidavit shall be obtained which sets forth: the identity of the incorrect record, the incorrect data as it is listed, the correct data as it should be listed, and the documentary evidence supporting the facts. In addition to the affidavit, a document or certified or true copy of such document, must be obtained which is over five years of age and will establish the identity of the certificate to be altered or corrected and will support the true and correct facts. The five years may be waived for recently filed certificates. Any item of a vital record which has been previously corrected may only be changed again by court order.

8. All documents, except the affidavit, shall be returned to the applicant after review.

§ 11.3. Methods of correcting or altering certificates.

A. A new name authorized by court order shall be recorded by drawing a single line through the name appearing on the certificate and inserting above it or to the side of it the new name. In addition, there shall be inserted on the certificate a statement that the name was changed by court order and the date and place of such order. The word "Amended" shall be written in the top margin of the certificate. Certificates on which given names are added within seven years after birth or on which given names have been changed at any time pursuant to subdivision 3 of § 11.2 of these regulations shall not be considered as amended.

B. In all other cases, corrections or alterations shall be made by drawing a single line through the incorrect item, if listed, and by inserting the correct or missing data immediately above it or to the side of it, or by completing the blank item, as the case may be. In addition, there shall be inserted on the certificate a statement identifying the affidavit and documentary evidence used as proof of the correct facts and the date the correction was made. If three months have elapsed from the date of filing, the word "Amended" shall be written in the top margin of the certificate unless otherwise stated in these regulations.

PART XII. INSPECTION OF RECORDS AND DISCLOSURE OF INFORMATION.

§ 12.1. Individual requests.

Upon request, the State Registrar or the city or county registrar shall disclose data or issue certified copies of birth or death records or information when satisfied that the applicant therefor has a direct and tangible interest in the content of the record and that the information contained therein is necessary for the determination or protection of personal or property rights.

1. A direct and tangible interest may be evidenced by requests from the registrant, members of his immediate family, his guardian, or their respective legal representatives in the case of birth records. Such direct and tangible interest may be evidenced by requests from surviving relatives or their legal representatives in the case of death records.

2. For the purposes of securing information or obtaining certified copies of birth and death records, the term "legal representative" shall include an attorney, physician, funeral director, insurance company, or an authorized agency acting in behalf of the registrant or his family.

3. A direct and tangible interest shall not be evidenced by the natural parents of an adopted child; nor by commercial firms, agencies, nonprofit or religious organizations requesting listings of names or addresses.

§ 12.2. Research requests.

The State Registrar or the city or county registrar may permit use of data from vital records for bona fide research purposes subject to reasonable conditions the State Registrar may impose to ensure that the use of the data is limited to such research purposes.

§ 12.3. Official requests.

The State Registrar or the city or county registrar may disclose data from vital records to federal, state, county, or municipal agencies of government which request such data in the conduct of their official duties; except that records governed by §§ 32.1-261 and 32.1-274 D and E of the Code of Virginia, may be made available only by the State Registrar for official purposes to federal, state, county, or municipal agencies charged by law with the duty of detecting or prosecuting crime, preserving the internal security of the United States, or for the determination of citizenship.

§ 12.4. Application for records.

The State Registrar or the city or county registrar may require written applications for data; the identification of an applicant; or a sworn statement, when it shall seem necessary to establish an applicant's right to information from vital records.

Proposed Regulations

PART XIII. CERTIFICATIONS OF DATA; FEES.

§ 13.1. Certified copies; how prepared.

Under the provision of § 32.1-272 of the Code of Virginia and Part XII of these regulations, certifications of vital records may be prepared and issued by the State Registrar and, where applicable, by the city or county registrar.

1. Certifications may be made by photostat or other reproduction process, typewriter, or electronic print except that medical and health data on the birth certificate shall not be so certified.

2. The statement to appear on each certification of a vital record is to read as follows:

"This is to certify that this is a true and correct reproduction or abstract of the official record filed with the Department of Health, Virginia.

Date issued

.....Registrar"

The registrar will enter the appropriate city or county name in the spaces provided, date and sign the certification, and enter his official title.

3. The seal of the issuing office is to be impressed on the certification.

4. Short form certifications of birth records, or birth registration cards, which make no reference to parentage may be issued by the State Registrar.

§ 13.2. Fees.

The fee to be charged by the State Registrar or by the city or county registrar shall be ~~\$5.00~~ \$8.00 for each full certification or short form certification of a vital record, or for a search of the files or records when no copy is made.

V.A.R. Doc. No. R94-1075; Filed June 22, 1994, 10:06 a.m.

DEPARTMENT OF MENTAL HEALTH, MENTAL RETARDATION AND SUBSTANCE ABUSE SERVICES (BOARD OF)

Title of Regulation: VR 470-01-01. Public Participation Guidelines (REPEALING).

Title of Regulation: VR 470-01-01:1. Public Participation Guidelines.

Statutory Authority: §§ 9-6.14:7.1 and 37.1-10 of the Code of Virginia.

Public Hearing Date: N/A – Written comments may be submitted until September 11, 1994.

(See Calendar of Events section for additional information)

Basis: Section 9-6.14:7.1 of the Code of Virginia requires each agency to develop, adopt and use public participation guidelines for soliciting the input of interested persons in the formation and development of its regulations. Section 37.1-10 of the Code of Virginia authorizes the State Board of Mental Health, Mental Retardation and Substance Abuse Services to make, adopt and promulgate such rules and regulations as may be necessary to carry out the provisions of Title 37.1 of the Code of Virginia and other laws of the Commonwealth administered by the Commissioner of the Department of Mental Health, Mental Retardation and Substance Abuse Services.

Purpose: The Administrative Process Act (§ 9-6.14:1 et seq. of the Code of Virginia) requires agencies to adopt public participation guidelines prior to initiating the promulgation of any regulations. The proposed regulation sets forth the procedures to be followed by the agency for soliciting input from the public during all phases of the regulatory process.

Substance: The proposed regulation (i) allows individuals to petition the department to develop new regulations or amend existing regulations; (ii) requires at least a 30-day period for public comment prior to filing proposed regulations; and (iii) requires notification of whether the agency intends to schedule public hearings on proposed regulations after publication in The Virginia Register of Regulations.

Issues: The regulation is beneficial to the public because it sets out the procedures that allow for the involvement of the public during the promulgation process. The agency does not believe the proposed regulation presents any disadvantages for the public.

Estimated Impact: The proposed regulation is not anticipated to result in additional general fund expenditures by the department. The department has a low volume of regulatory activity and the provisions of this new regulation do not significantly change the original public participation guidelines.

No locality will be particularly affected by the adoption of this regulation.

Summary:

The proposed regulation (i) allows individuals to petition the department to develop new regulations or amend existing regulations; (ii) requires at least a 30-day period for public comment prior to filing proposed regulations; and (iii) requires notification of whether the agency intends to schedule public hearings on proposed regulations after publication in The Virginia Register of Regulations.

VR 470-01-01:1. Public Participation Guidelines.

PART I. STATEMENT OF PURPOSE.

§ 1.1. Purpose.

The purpose of these regulations is to provide guidelines for the involvement of the public in the development and promulgation of regulations of the Department of Mental Health, Mental Retardation and Substance Abuse Services. The guidelines do not apply to regulations exempted or excluded from the provisions of the Administrative Process Act (§ 9-6.14:4.1 of the Code of Virginia).

PART II. MAILING LIST.

§ 2.1. Composition of the mailing list.

A. The Department of Mental Health, Mental Retardation and Substance Abuse Services shall maintain a list of persons or entities who have requested to be notified of the formation and promulgation of regulations.

B. Any person or entity may request to be placed on the mailing list by indicating so in writing to the Department of Mental Health, Mental Retardation and Substance Abuse Services. The Department of Mental Health, Mental Retardation and Substance Abuse Services may add to the list any person or entity it believes will serve the purpose of enhancing participation in the regulatory process.

C. The Department of Mental Health, Mental Retardation and Substance Abuse Services may maintain additional mailing lists for persons or entities who have requested to be informed of specific regulatory issues, proposals, or actions.

D. The Department of Mental Health, Mental Retardation and Substance Abuse Services shall periodically request those on the mailing list to indicate their desire to continue to receive documents or be deleted from the list. When mail is returned as undeliverable, individuals or organizations shall be deleted from the list.

§ 2.2. Documents to be sent to persons or entities on the mailing list.

Persons or entities on the mailing list described in § 2.1 shall be mailed the following documents related to the promulgation of regulations:

1. A Notice of Intended Regulatory Action.
2. A Notice of Comment Period.
3. A copy of any final regulation adopted by the Department of Mental Health, Mental Retardation and

Substance Abuse Services.

4. A notice of soliciting comment on a final regulation when the regulatory process has been extended.

PART III. PUBLIC PARTICIPATION PROCEDURES.

§ 3.1. Petition for rulemaking.

A. As provided in § 9-6.14:7.1 of the Code of Virginia, any person may petition the Department of Mental Health, Mental Retardation and Substance Abuse Services to develop a new regulation or amend an existing regulation.

B. A petition shall include but need not be limited to the following:

1. The petitioner's name, mailing address, telephone number, and, if applicable, the organization represented in the petition.
2. The number and title of the regulation to be addressed.
3. A description of the regulatory problem or need to be addressed.
4. A recommended addition, deletion, or amendment to the regulation.

C. The Department of Mental Health, Mental Retardation and Substance Abuse Services shall receive, consider and respond to a petition within 180 days.

D. Nothing herein shall prohibit the Department of Mental Health, Mental Retardation and Substance Abuse Services from receiving information from the public and proceeding on its own motion for rulemaking.

§ 3.2. Notice of Intended Regulatory Action.

A. The Notice of Intended Regulatory Action shall state the purpose of the action and a brief statement of the need or problem the proposed action will address.

B. The Notice of Intended Regulatory Action shall indicate whether the Department of Mental Health, Mental Retardation and Substance Abuse Services intends to hold a public hearing on the proposed regulation after it is published. If the Department of Mental Health, Mental Retardation and Substance Abuse Services does not intend to hold a public hearing, it shall state the reason in the Notice of Intended Regulatory Action.

C. The Notice of Intended Regulatory Action shall state that a public hearing will be scheduled, if, during the 30-day comment period, the Department of Mental Health, Mental Retardation and Substance Abuse Services receives requests for a hearing from at least 25 persons.

Proposed Regulations

§ 3.3. Notice of Comment Period.

A. The Notice of Comment Period shall indicate that copies of the proposed regulation are available from the Department of Mental Health, Mental Retardation and Substance Abuse Services and may be requested in writing from the contact person specified in the Notice of Comment Period.

B. The Notice of Comment Period shall indicate that copies of the statement of substance, issues, basis, purpose, and estimated impact of the proposed regulation may also be requested in writing.

§ 3.4. Notice of meeting.

A. For any meeting of the Department of Mental Health, Mental Retardation and Substance Abuse Services or advisory committee at which the formation or adoption of regulation is anticipated, the subject shall be described in the Notice of Meeting and transmitted to the Registrar for inclusion in The Virginia Register.

B. If the Department of Mental Health, Mental Retardation and Substance Abuse Services anticipates action on a regulation for which an exemption to the Administrative Process Act is claimed under § 9-6.14:4.1 of the Code of Virginia, the Notice of Meeting shall indicate that a copy of the regulation is available upon request at least two days prior to the meeting. A copy of the regulation shall be made available to the public attending such meeting.

§ 3.5. Public hearing on regulations.

The Department of Mental Health, Mental Retardation and Substance Abuse Services shall conduct a public hearing during the 60-day comment period following the publication of a proposed regulation or amendment to an existing regulation, unless at a noticed meeting the Department of Mental Health, Mental Retardation and Substance Abuse Services determines that a hearing is not required.

PART IV. ADVISORY COMMITTEES.

§ 4.1. Appointment of committees.

A. The Department of Mental Health, Mental Retardation and Substance Abuse Services may appoint an ad hoc advisory committee whose responsibility shall be to assist in the review and development of regulations for the Department of Mental Health, Mental Retardation and Substance Abuse Services.

B. The Department of Mental Health, Mental Retardation and Substance Abuse Services may appoint an ad hoc advisory committee to provide professional specialization or technical assistance when the Department of Mental Health, Mental Retardation and Substance Abuse Services

determines that such expertise is necessary to address a specific regulatory issue or need or when groups of individuals register an interest in working with the agency.

§ 4.2. Limitation of service.

A. An advisory committee which has been appointed by the Department of Mental Health, Mental Retardation and Substance Abuse Services may be dissolved by the Department of Mental Health, Mental Retardation and Substance Abuse Services when:

1. There is no response to the Notice of Intended Regulatory Action, or

2. The Department of Mental Health, Mental Retardation and Substance Abuse Services determines that the promulgation of the regulation is either exempt or excluded from the requirements of the Administrative Process Act (§ 9-6.14:4.1 of the Code of Virginia).

B. An advisory committee shall remain in existence no longer than 12 months from its initial appointment.

1. If the Department of Mental Health, Mental Retardation and Substance Abuse Services determines that the specific regulatory need continues to exist beyond that time, it shall set a specific term for the committee of not more than six additional months.

2. At the end of that extended term, the Department of Mental Health, Mental Retardation and Substance Abuse Services shall evaluate the continued need and may continue the committee for additional six-month terms.

VA.R. Doc. Nos. R94-1074 and R94-1072; Filed June 21, 1994, 3:54 p.m.

FINAL REGULATIONS

For information concerning Final Regulations, see information page.

Symbol Key

Roman type indicates existing text of regulations. *Italic type* indicates new text. Language which has been stricken indicates text to be deleted. [Bracketed language] indicates a substantial change from the proposed text of the regulations.

VIRGINIA ASBESTOS LICENSING BOARD

Title of Regulation: VR 190-05-01. Asbestos Licensing Regulations (REPEALED).

Title of Regulation: VR 137-01-02. Virginia Asbestos Licensing Regulations.

Statutory Authority: § 54.1-501 of the Code of Virginia.

Effective Date: September 1, 1994.

Summary:

The regulations implement the Virginia Asbestos Licensing Board created by an act of the 1993 Session of the General Assembly. Additionally, the Asbestos School Hazard Abatement Reauthorization Act (ASHARA) mandated by the United States Environmental Protection Act (EPA) is implemented. A "Standards of Practice and Conduct" section has been created to provide for disciplinary action against licensees who fail to comply with the regulations. Also, a "General Entry and Renewal Requirements" section has been added and the asbestos worker and supervisor sections have been combined to eliminate duplicate language and provide simplicity and clarity. New standards have been created for training provider record keeping, certificate information, length of training, training upgrade, primary instructor approval, use of videos and training course approval. License applicants will be required to submit proof of continuing accreditation in addition to proof of initial accreditation. Project designer applicants will be required to submit proof of experience.

The following definitions have been added or revised: "asbestos project," "asbestos management plan," "asbestos project design," "asbestos RFS contractor's license," "board," "demolition," "direct supervision," "full approval," "friable," "hands-on experience," "occupied," "preliminary review," "primary instructor," "removal," "site," "substantial change," and "structure."

Fees have been reduced for Asbestos Contractor Licenses, RFS Contractor Licenses, Asbestos Analytical Laboratory Licenses and for training course approvals to comply with § 54.1-113 of the Code of Virginia.

Two changes were made to the adopted regulations since they were proposed on December 13, 1993. First, a definition for "direct supervision" has been added.

With this definition, it is clear that supervisors of unlicensed individuals must be physically present when the unlicensed individual is performing a task related to the experience to be used for licensure. Second, the alternative for a project monitor who analyzes PCM air samples on-site to be registered with the Asbestos Analytical Registry (AAR) has been deleted. This deletion returns the requirement for project monitors who analyze PCM air samples on-site to be employed by a licensed analytical laboratory. This returns the requirement to its current standing.

Summary of Public Comment and Agency Response: A summary of comments made by the public and the agency's response may be obtained from the promulgating agency or viewed at the office of the Registrar of Regulation.

Agency Contact: Copies of the regulation may be obtained from Kent Steinruck, Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, VA 23230, telephone (804) 367-8595. There may be a charge for copies.

VR 137-01-02. Virginia Asbestos Licensing Regulations.

PART I. SCOPE.

§ 1.1. Scope.

The purpose of this section is to identify those in the asbestos industry who need a specific Virginia asbestos license. The following lists the types of asbestos license and those required to be licensed.

Asbestos Contractors License: Required for companies that contract with another person, for compensation, to carry out an asbestos abatement project.

Asbestos RFS Contractors License: Required for companies that contract with another person, for compensation, to remove nonfriable asbestos-containing roofing, flooring, or siding. This material must remain nonfriable during the entire removal process. Employees of RFS contractors are not required to be licensed, however, they must have RFS training specific to the type of nonfriable asbestos containing material they remove (roofing, flooring, or siding).

Asbestos Worker License: Required for those who remove or otherwise engage in an asbestos project.*

Asbestos Supervisor License: Required for those who

Final Regulations

supervise an asbestos abatement project. The Commonwealth of Virginia National Emission Standards for Hazardous Air Pollutants (NESHAP) Program recognizes the "competent person" as an individual licensed under this classification.*

Asbestos Building Inspector: Required for those who inspect buildings to identify, classify, record, sample, test and prioritize by exposure potential asbestos containing material.*

RFS Inspector License: Required for those who identify the presence of asbestos-containing roofing, flooring or siding material through sampling and interpretation of testing reports prepared by a licensed asbestos analytical laboratory.

Asbestos Management Planners License: Required for those who prepare or update an asbestos management plan.*

Asbestos Project Monitors License: Required for those who act as a project monitor on asbestos abatement sites. Project monitors who analyze PCM asbestos air samples on an asbestos abatement project must be employed by a firm that holds a valid Virginia Asbestos Analytical Laboratory license [~~or the project monitor must be registered with the AHA National Analyst Registry~~].

Asbestos Analytical Laboratory License: Required for laboratories who analyze air or bulk samples for the presence of asbestos by PLM, PCM, or TEM.

Asbestos Project Designers License: Required for those who prepare or update an asbestos abatement project design, specifications for asbestos abatement projects, and addenda to the specifications.*

* Employees who conduct asbestos response actions, inspections, prepare management plans or project designs for their employer, on property owned or leased by the employer, are exempt from Virginia asbestos licensure, however, they are required to meet all EPA training requirements.

PART II. DEFINITIONS.

§ 2.1. Definitions.

The following words and terms, when used in these regulations, shall have the following meaning, unless the context clearly indicates otherwise:

"ACM" means asbestos containing material.

"AHERA" means Asbestos Hazard Emergency Response Act 40 CFR Part 763, Subpart E.

"Asbestos" means any material containing more than 1.0% asbestos by area as determined by microscopy.*

"Asbestos Analytical Laboratory License" means an authorization issued by the department to perform phase contrast, polarized light, or transmission electron microscopy on material known or suspected to contain asbestos.*

"Asbestos Contractor's License" means an authorization issued by the department permitting a person to enter into contracts to perform an asbestos abatement project.*

"Asbestos Containing Material" or "ACM" means any material or product which contains more than 1.0% asbestos by area as determined by microscopy.

"Asbestos inspector" means any person who performs an on-site investigation to identify, classify, record, sample, test and prioritize by exposure potential asbestos containing materials.

"Asbestos Inspector's License" means an authorization issued by the department permitting a person to perform on-site investigations to identify, classify, record, sample, test and prioritize by exposure potential asbestos-containing materials.*

"Asbestos Management Plan" means a program designed to control or abate any potential risk to human health from asbestos.*

"Asbestos management planner" means any person preparing or updating a management plan.

"Asbestos Management Planner's License" means an authorization issued by the department permitting a person to develop or alter an asbestos management plan.*

"Asbestos project" or "asbestos abatement project" means an activity involving job set-up for containment, removal, encapsulation, enclosure, encasement, renovation, repair, construction or alteration of asbestos-containing materials. An asbestos project or asbestos abatement project shall not include nonfriable asbestos containing roofing, flooring and siding material which when installed, encapsulated or removed does not become friable.*

"Asbestos project design" means any descriptive form written as instructions or drafted as a plan describing the construction of an asbestos abatement area or site, response action or work practices to be utilized on the asbestos abatement project.

"Asbestos project designer" means any person providing an asbestos project design or specifications for an asbestos abatement project.

"Asbestos Project Designer's License" means an authorization issued by the department permitting a person to design an asbestos abatement project.*

"Asbestos project monitor" means any person hired by a building owner or his agent to monitor, inspect, provide

visual clearance or clearance monitoring of an asbestos abatement project.

"Asbestos Project Monitor License" means an authorization issued by the department permitting a person to monitor an asbestos project, subject to department regulations.*

"Asbestos supervisor" means any person so designated by an asbestos contractor who provides on-site supervision and direction to the workers engaged in asbestos projects.*

"Asbestos Supervisor's License" means an authorization issued by the department permitting an individual to supervise and work on an asbestos project.

"Asbestos worker" means any person who engages in an asbestos abatement activity.

"Asbestos Worker's License" means an authorization issued by the department permitting an individual to work on an asbestos project.*

["ASHARA" means Asbestos School Hazard Abatement Reauthorization Act, 40 CFR Part 763, Subpart E.]

"Board" means the Virginia Asbestos Licensing Board.

"Department" means the Department of Professional and Occupational Regulation.*

"Demolition" means the wrecking or taking out of any load-supporting structural member of a structure or solid barrier which is known to contain or be enclosing an asbestos-containing material.

"Director" means the Director of the Department of Professional and Occupational Regulation.*

["Director supervision" means a licensed or accredited inspector, management planner, project monitor or project designer, who undertakes to supervise the activities of an unlicensed inspector, management planner, project monitor or project designer, shall be physically present on the premises at all times while any unlicensed inspector, management planner, project monitor or project designer under his supervision is engaged in the activities of an inspector, management planner, project monitor or project designer.]

"Employee" means all persons in the service of another under any contract of hire, express or implied, oral or written.

"Encapsulation" means the treatment of ACM with a material that surrounds or embeds asbestos fibers in an adhesive matrix to prevent the release of fibers, as the encapsulant creates a membrane over the surface (bridging encapsulant) or penetrates the material and binds its components together (penetrating encapsulant).

"Encasement" means any process by which an asbestos-containing material is sprayed with an insulating sealer which is then mechanically fastened to the asbestos covered substrate. The insulating sealer is then covered with a sealer to give structural strength and durability.

"Enclosure" means the construction or installation over or around the ACM of any leak tight solid or flexible coverings, which will not deteriorate or decompose for an extended period of time, so as to conceal the ACM, contain ACM fibers, and render the ACM inaccessible.

"Financial interest" means financial benefit accruing to an officer or an employee or to a member of his immediate family. Such interest shall exist by reason of (i) ownership in a business if the ownership exceeds 3.0% of the total equity of the business; (ii) annual gross income that exceeds, or may be reasonably anticipated to exceed, \$1,000 from ownership in real or personal property or a business; (iii) salary, other compensation, fringe benefits, or benefits from the use of property, or any combination thereof, paid or provided by a business that exceeds or may be reasonably expected to exceed \$1,000 annually; (iv) ownership of real or personal property if the interest exceeds \$1,000 in value and excluding ownership in business, income, salary, other compensation, fringe benefits or benefits from the use of property.

"Friable" means that the material when dry, may be crumbled, pulverized or reduced to powder by hand pressure and includes previously nonfriable material after such previously nonfriable material becomes damaged to the extent that when dry it may be crumbled, pulverized, or reduced to powder by hand pressure.*

"Full approval" means approval given to a training provider for a course that has met the requirements of these regulations.

"Hands-on experience" means the physical participation of students in an asbestos training class. The physical participation includes mock sampling and inspection techniques, report preparation, writing project specifications, glovebag demonstrations and containment construction.

"Immediate family" means (i) a spouse, (ii) a sibling or step sibling, (iii) a parent or step parent, (iv) children or step children, and (v) any other person residing in the same household as the officer or employee.

"Local education agency" or "LEA" shall have the meaning provided in the USEPA AHERA regulations set forth in 40 CFR 763. *

"NIOSH" means National Institute of Occupational Safety and Health.

"NIST" means National Institute of Standards and Technology.

Final Regulations

"Occupied" means any area of any building designed or intended for human habitation for any purpose.

"Officer" means any person appointed, elected or hired by any company, whether or not he receives compensation or any other emolument of office.

"OSHA" means the U.S. Department of Labor Occupational Safety and Health Administration.

"Person" means a corporation, partnership, sole proprietorship, firm, enterprise, franchise, association or any other individual or entity.*

"Preliminary review" means a review conducted by the board following the submission of training materials to ascertain if the proposed training course meets the standards established by these regulations.

"Primary instructor" means an instructor whose main responsibility is to instruct courses, supervise other instructors and manage the overall course curriculum.*

"PCM" means phase contrast microscopy.

"PLM" means polarized light microscopy.

"RFS Contractor's License" means an authorization issued by the department permitting a person to enter into contracts to install, remove or encapsulate nonfriable asbestos-containing roofing, flooring and siding materials.

"RFS inspector" means any person performing on-site investigations to identify, classify, record or sample suspect asbestos-containing roofing, flooring or siding materials.

"RFS Inspector's License" an authorization issued by the department authorizing a person to identify the presence of asbestos-containing roofing, flooring and siding material through sampling and interpretation of testing reports prepared by a licensed asbestos analytical laboratory.*

"Removal" means the physical removal of ACM and disposal thereof in accordance with all applicable regulations.

"Renovation" means altering in any way, one or more facility components.

"Repair" means returning damaged ACM to an undamaged condition or to an intact state so as to prevent fiber release.

"Residential buildings" means site-built homes, modular homes, condominium units, mobile homes, manufactured housing, and duplexes, or other multi-unit dwellings consisting of four units or less which are currently in use or intended for use only for residential purposes.

"Response action" means any method including removal, encapsulation, enclosure or encasement that remediates an

asbestos-containing material.

"Site" means an area established by the employer or contractor to demarcate areas where the airborne concentration of asbestos exceeds or can reasonably be expected to exceed the permissible exposure limit. The area may take the form of a temporary enclosure as defined by 29 CFR 1926.58(e)(6) or be demarcated in any manner which restricts employees from entering the area.

"Structure" means any building or load supporting framework whether fixed or portable utilized for occupancy, storage, or conveyance of public utilities or industrial materials.

"Substantial change" means a change in overall course curriculum, materials, primary instructors, directors, ownership, facilities, equipment, examinations, and certificates of completion. The addition of updated regulations, exam questions or news articles shall not be considered a substantial change.

"TEM" means transmission electron microscopy.

"USEPA" means United States Environmental Protection Agency.

"Visual inspection" means a process of looking for conditions, which if not corrected during the asbestos abatement project, will lead to residual asbestos-containing dust or debris. Visual inspection includes examination of an asbestos abatement project area prior to clearance air monitoring for evidence that the project has been successfully completed as indicated by the absence of residue, dust and debris.

* Cited from § 54.1-500 of the Code of Virginia

PART III. GENERAL ENTRY AND RENEWAL REQUIREMENTS.

§ 3.1. License application.

A. Individual and business applicants are responsible for obtaining a current application. All requests for applications should be directed to:

Assistant Director
Virginia Board for Asbestos Licensing
Virginia Department of Professional and Occupational
Regulation
3600 West Broad Street
Richmond, Virginia 23230

B. Individuals applying for initial licensure shall provide proof of successful completion of a EPA/AHERA or board approved initial asbestos training course and all subsequent EPA/AHERA or board approved refresher courses, relevant to the applicants discipline. If, at any time, there has been a lapse of AHERA accreditation of more than [

12 24] months, the applicant must show successful completion within the past 24 months of a EPA/AHERA or board approved initial asbestos training course, relevant to the applicants discipline.

C. Each application shall be signed by the applicant and shall include a certification, by the applicant, that within three years prior to the application date, the applicant's license or other authorization to perform asbestos related work has not been suspended or revoked by any jurisdiction and that no enforcement action by any jurisdiction is pending against the applicant.

D. In the event disciplinary actions have been taken against the applicant, the applicant shall submit the following information, as the board may deny an applicant's request for a license based on prior disciplinary actions which indicate that the asbestos related work may not be performed in a manner that would protect the public health, safety and welfare:

1. A complete list of all prior disciplinary actions, including any sanctions imposed on the applicant by any jurisdiction or any state or federal court.
2. A description of any asbestos abatement or inspection activities, or both, conducted by the applicant that were terminated prior to completion, including the circumstances of the termination.
3. A copy of all reports compiled by the enforcement agency or a copy of a final report.

E. All applications shall be completed according to the instructions provided with the application. Incomplete applications will be returned to the applicant; fees received will not be refunded.

Applicants who submit checks which are dishonored by the institution on which they are drawn shall pay a \$25 service fee in addition to the application fee required by these regulations.

§ 3.2. Experience and Educational Verification Form (Form A).

Each application for inspector, management planner, project monitor and project designer shall include an Experience and Education Verification Form (Form A) completed by the applicant and signed by a supervisor verifying the job description of the applicant during the term of employment. Form A shall contain the name and address of the employer, a complete and concise job description, a job title, the dates of employment and the signature, typewritten or printed name, address and phone number of the supervisor verifying the experience. In lieu of a verifying signature for experience, an applicant who is self employed may submit a copy of three completed inspections, management plans, project designs or project monitor reports, whichever is applicable. If verification of a degree is required, the degree verification form must be

sent directly from the school. An incomplete Form A will be returned to the applicant with an explanation for the return, and will constitute an incomplete application for licensure. Form A may be resubmitted following completion by the applicant.

§ 3.3. Fees.

A. The fee for an initial or a renewal of an asbestos worker, supervisor, inspector, RFS inspector, management planner, project designer, or project monitor license shall be \$35.

B. The renewal fee for individual licenses not renewed within 30 days after the noted expiration date shall be \$70.

C. The fee for an initial or a renewal of an Asbestos Analytical Laboratory License shall be \$75.

D. The renewal fee for Asbestos Analytical Laboratory Licenses not renewed within 30 days after the noted expiration date shall be \$150.

E. The fee for an initial or a renewal of an Asbestos Contractor License and RFS Asbestos Contractor License shall be \$300.

F. The renewal fee for Asbestos Contractor Licenses or RFS Contractors Licenses not renewed within 30 days after the noted expiration date shall be \$600.

G. [Those who fail to renew A license not renewed] within six months after the expiration date printed on the license shall not be renewed and [the licensee] shall apply for a new license.

H. [All Applicants who submit a] dishonored [checks check] will be charged a \$25 service fee in addition to the required application fee.

§ 3.4. Expiration.

All asbestos licenses issued under these regulations shall expire one year from the last day of the month in which they are issued as indicated on the license.

§ 3.5. Renewal application.

A. The department will mail a renewal notice to the licensee at the last known address. The notice shall outline the procedures for renewal and the renewal fee amount. Failure to receive the notice shall not relieve the licensee of the obligation to renew.

B. Prior to the expiration date shown on the license, each licensee desiring to renew the license shall return to the board the renewal notice and appropriate fee. Should the licensee fail to receive the renewal notice, a copy of the current license may be submitted with the required fee.

Final Regulations

C. For individual licenses, only asbestos refresher training courses approved by the board shall meet the training requirement for license renewal. Asbestos refresher courses approved by the USEPA under AHERA Regulations will not fulfill the renewal requirements unless the course is also a Virginia approved asbestos refresher training course. All refresher courses must be discipline specific. Applicants for renewal shall forward proof that the annual retraining requirements and an examination has been successfully completed. A copy of the certificate meeting the requirements outlined in § 14.4 of these regulations shall accompany the renewal card and fee.

D. If the renewal fee is not received by the department within 30 days after the expiration date noted on the license, a late renewal fee shall be required in addition to the renewal fee as stated in § 3.3.

E. Licensees failing to renew their licenses within six months after the expiration date noted on the license shall not be permitted to renew their licenses and shall apply as new applicants. Applicants shall reapply in accordance with Part III of these regulations.

§ 3.6. Change of address or name.

All licensees shall notify the board, in writing, of any change of address or name. This notification shall be sent to the board within 30 days of such relocation or name change.

PART IV. ASBESTOS [WORKERS WORKER] AND [SUPERVISORS SUPERVISOR] LICENSING REQUIREMENTS.

§ 4.1. Qualifications for licensure.

Each individual applying to the board for licensure as an asbestos worker or asbestos supervisor shall have the following qualifications:

1. Applicants shall be at least 18 years of age.
2. Applicants shall provide all evidence of completion of an EPA/AHERA approved training course as per § 3.1 B.

§ 4.2. Completed application.

A completed application, as defined in § 3.1, shall be accompanied by the required fee. All checks or money orders shall be made payable to the Treasurer of Virginia. No application will be processed if it is not accompanied by the required fee.

PART V. ASBESTOS CONTRACTOR LICENSING REQUIREMENTS.

§ 5.1. Qualifications for licensure.

Applicants shall have all occupational or professional licenses as required by state statute or local ordinance to transact the business of an asbestos contractor in addition to the requirements in these regulations.

§ 5.2. Asbestos contractor responsibilities.

A. Licensed asbestos contractors shall comply with all requirements, procedures, standards and regulations covering any part of an asbestos project established by the U.S. Environmental Protection Agency, the U.S. Occupational Safety and Health Administration, the Virginia Department of Labor and Industry, [and] the [~~Virginia Air Pollution Control Board, and the Virginia Waste Management Board~~ Divisions of Air Pollution and Waste Management of the Department of Environmental Quality] .

B. Licensed asbestos contractors may also be required to comply with the requirements found in § 54.1-1100 of the Code of Virginia governing the regulation of general contractors.

C. The licensed asbestos contractor may designate a licensed supervisor to serve as his agent for the purpose of meeting the training requirements.

D. A licensed asbestos contractor shall use only licensed asbestos supervisors and workers to perform work on any asbestos project.

E. A licensed asbestos supervisor must be present at each job site while an asbestos project is in progress.

§ 5.3. Maintenance of licensing and training records at the asbestos job site.

A. The asbestos contractor shall be responsible for maintaining, at each job site, a list or copy of the license of each asbestos worker and supervisor. This list shall include the current license numbers and the license expiration dates of those workers and supervisors. The section does not relieve the contractor of any specific AHERA [and ASHARA] requirements concerning training certificates.

B. A licensed asbestos contractor shall maintain a copy of their Virginia asbestos contractors license on the job site.

C. Records maintained at the job site shall be available for review by the Department of Labor and Industry, the Department of Professional and Occupational Regulation, and all other agencies having authorization to inspect an asbestos job site.

§ 5.4. Conflict of interest.

Pursuant to § 54.1-501.1 of the Code of Virginia, the following situations and relationships between license categories are deemed to represent a conflict of interest

and are prohibited.

1. It is a conflict of interest and a violation of these regulations for an asbestos contractor to have an employee/employer relationship with, or financial interest, in a laboratory utilized by the contractor for asbestos sample analysis. Laboratories owned by a building owner performing analysis on suspect asbestos samples taken from the building owners' property are exempt from this section.

2. It is a conflict of interest and a violation of these regulations for an asbestos contractor to have an employee/employer relationship with an asbestos project monitor working on an asbestos project performed by that asbestos contractor. An asbestos contractor shall not have any financial interests in the firm of which a project monitor is an employee. This section does not relieve a contractor of the OSHA personal monitoring requirements set forth in 29 CFR § 1926.58(f).

3. It is a conflict of interest and a violation of these regulations for an asbestos contractor to enter into a contract to perform an asbestos project if the asbestos inspection or project design was performed by individuals with an employer/employee relationship with or financial interest in, the asbestos contractor, unless the asbestos contractor provides the building owner with the Virginia Asbestos Licensing Consumer Information Sheet and the Virginia Asbestos Licensing Inspector/Project Designer/Contractor Disclosure Form as prescribed by the department. The asbestos contractor's relationship with the asbestos inspector, asbestos RFS inspector, or project designer on the project must be disclosed. The disclosure form must be signed and dated by the building owner or his agent and the contracting entity prior to the bid or contract submission. The building owner must provide the disclosure form to all parties involved in the asbestos project. The disclosure form will be kept on the asbestos project site and available for review.

§ 5.5. Denial of license.

The board may refuse to issue a license to any asbestos contractor who is shown to have a substantial identity of interest with an asbestos contractor or RFS contractor whose asbestos license has been revoked, suspended or not renewed. A substantial identity of interest is defined to include, but is not limited to, (i) a controlling financial interest by the individual or corporate principals of the asbestos contractor whose license has been revoked or not renewed or (ii) any officers or directors whose license has been denied, revoked, or not renewed.

§ 5.6. Transfer of Asbestos Contractor License.

The transfer of an Asbestos Contractor License is prohibited. Whenever there is any change in the controlling interest of the licensed legal entity, whether in

proprietorship or change of partner in partnership or the creation of a corporation, a new license is required.

PART VI. RFS CONTRACTOR LICENSING REQUIREMENTS.

§ 6.1. General.

All individual workers and supervisors on RFS projects must have fulfilled the RFS training requirements specified in Part XVI.

§ 6.2. Qualifications for licensure.

Applicants shall have all occupational or professional licenses required by state statute or local ordinance to transact the business of an asbestos RFS contractor, in addition to the requirements forth in these regulations.

§ 6.3. RFS contractor responsibilities.

A. Licensed RFS contractors shall comply with all requirements, procedures, standards and regulations relating to asbestos established by the U.S. Environmental Protection Agency, the U.S. Occupational Safety and Health Administration, the Virginia Department of Labor and Industry, [and] the [~~Virginia Air Pollution Control Board~~ and the ~~Virginia Waste Management Board~~ Divisions of Air Pollution and Waste Management of the Department of Environmental Quality] .

B. Licensed RFS contractors may also be required to comply with the requirements found in § 54.1-1100 of the Code of Virginia, governing the regulation of general contractors.

C. A licensed RFS Contractor shall use only RFS trained workers and RFS trained supervisors to perform work on any RFS removal project.

D. A trained RFS supervisor must be present at each job RFS job site.

§ 6.4. Maintenance of training records at the asbestos job site.

A. The RFS contractor shall be responsible for maintaining, at each job site, a copy of the training certificates for each RFS asbestos worker and supervisor and shall include the date of each worker and supervisor RFS training.

B. A licensed RFS contractor shall maintain a copy of their Virginia RFS asbestos contractors license on each job site.

C. Records maintained at the job site shall be available for review by the Department of Labor and Industry, the Department of Professional and Occupational Regulation, and all other agencies having authorization to inspect an RFS job site.

Final Regulations

§ 6.5. Conflict of interest.

Pursuant to § 54.1-501.1 of the Code of Virginia, the following situations and relationships between license categories are deemed to represent a conflict of interest and are prohibited.

1. It is a conflict of interest and a violation of these regulations for an asbestos RFS contractor to have an employee/employer relationship with, or financial interest in, a laboratory utilized by the contractor for asbestos sample analysis. Laboratories owned by a building owner performing analysis on suspect asbestos samples taken from said building owner's property are exempt from this section.

2. It is a conflict of interest and a violation of these regulations for an asbestos RFS contractor to have an employee/employer relationship with an asbestos project monitor working on a removal project performed by that asbestos RFS contractor. An asbestos RFS contractor shall not have any financial interests in the firm of which a project monitor is an employee. This section does not relieve a contractor of the OSHA personal monitoring requirements in 29 CFR § 1926.58(f).

3. It is a conflict of interest and a violation of these regulations for an asbestos RFS contractor to enter into a contract to perform a removal project if the asbestos inspection or project design was performed by individuals with an employer/employee relationship with, or financial interest in, the asbestos RFS contractor, unless the RFS contractor provides the building owner with the Virginia Asbestos Licensing Consumer Information Sheet and the Virginia Asbestos Licensing Inspector/Project Designer/Contractor Disclosure Form as prescribed by the board. The asbestos RFS contractor's relationship with the asbestos inspector, asbestos RFS inspector, or project designer on the project must be disclosed. The disclosure form must be signed and dated by the building owner or his agent and the contracting entity prior to the bid or contract submission. The building owner must provide the disclosure form to all parties involved in the removal project removal. The disclosure form will be kept on the removal site and available upon demand.

§ 6.6. Denial of license.

The board may refuse to issue a license to any asbestos RFS contractor who is shown to have a substantial identity of interest with an RFS contractor or asbestos contractor whose asbestos license has been revoked, suspended or not renewed. A substantial identity of interest is defined to include but is not limited to, (i) a controlling financial interest by the individual or corporate principals of the asbestos RFS contractor whose license has been revoked or not renewed or (ii) any officers or directors whose license has been denied, revoked, or not renewed.

§ 6.7. Transfer of asbestos RFS contractor license.

The transfer of an RFS contractor license is prohibited. Whenever there is any change in the controlling interest of the licensed legal entity, whether in proprietorship or change of partner in partnership or the creation of a corporation, a new license is required.

PART VII. RFS INSPECTOR LICENSING REQUIREMENTS.

§ 7.1. Qualifications for licensure.

Each individual applying to the board for licensure as an RFS inspector shall have the following qualifications:

1. Applicants shall be at least 18 years of age.
2. Applicants shall provide evidence of having completed educational requirements, as set forth in § 16.23 of these regulations.

PART VIII. ASBESTOS INSPECTOR LICENSING REQUIREMENTS.

§ 8.1. Qualifications for licensure.

[A.] Each individual applying to the board for licensure as an asbestos inspector shall have the following qualifications:

1. Applicants shall be at least 18 years of age.
2. The applicant must have successfully completed an asbestos inspector training course and examination approved by the board or an USEPA accredited AHERA inspector training course and examination. Applicants shall submit all training documents in accordance with § 3.1 B.
3. The applicant shall be required to provide proof of experience in performing asbestos inspections in buildings or industrial facilities, including collecting bulk samples, categorizing ACM, assessing ACM and preparing inspection reports.

Experience may be gained by acting as an inspector, being in responsible charge of inspectors, or being under the [~~responsible charge~~ direct supervision] of an inspector as follows:

- a. Acting as an inspector accredited (after December 17, 1987) according to AHERA or the Virginia Asbestos Licensing Program; or
- b. Being in responsible charge of persons accredited as inspectors according to AHERA or the Virginia Asbestos Licensing Program; or
- c. Being under the [~~responsible charge~~ direct supervision] of an inspector accredited according to

AHERA or the Virginia Asbestos Licensing Program. All reports prepared by the unlicensed individual must be signed by the licensed or accredited individual in charge. The licensed or accredited individual in charge assumes responsibility for all reports prepared by the unlicensed individual.

4. An applicant with a bachelor's degree in engineering, architecture, industrial hygiene, science or a related field must have at least six months experience as described above. The applicant must submit the Experience and Educational Form (Form A) as noted in § 3.2.

5. An applicant with a two-year associate's degree in engineering, architecture, industrial hygiene, science or a related field must have at least 12 months experience as described above. The applicant must submit the Experience and Educational Form (Form A) as noted in § 3.2.

6. An applicant with a high school diploma must have at least 24 months experience as described above. The applicant must submit the Experience Verification Form as noted in § 3.2.

PART IX. ASBESTOS MANAGEMENT PLANNER LICENSING REQUIREMENTS.

§ 9.1. Management plan.

The management planner is responsible for preparing or updating a management plan in response to an asbestos inspection. This document identifies asbestos containing materials, specifies training, work permitting system, cleaning and work practices, and surveillance procedures to be utilized by maintenance and custodial staff performing routine maintenance. A management plan is prepared following an asbestos inspection.

§ 9.2. Qualifications for licensure.

A. Each individual applying to the board for licensure as an asbestos management planner shall have the following qualifications:

1. Applicants shall be at least 18 years of age.
2. The applicant must have successfully completed an asbestos management planner training course and examination approved by the board or a USEPA accredited AHERA management planner training course and examination. Applicants shall submit all training documents in accordance with § 3.1 B.
3. The applicant must meet all of the qualifications to be licensed as an asbestos inspector, whether or not the asbestos inspector license is held.
4. The applicant is required to provide proof of

experience evaluating inspection reports, selecting response actions, analyzing the cost of response actions, ranking response actions, preparing operations and maintenance plans and preparing management plans.

B. Experience may be gained by acting as a management planner, being in responsible charge of management planners or being under the [responsible charge direct supervision] of a management planner as follows:

1. Any experience gained after December 17, 1987, must be gained acting as a management planner accredited according to AHERA, or the Virginia Asbestos Licensing Program, being in responsible charge of persons accredited as management planners according to AHERA or being under the [responsible charge direct supervision] of a management planner accredited according to AHERA and the Virginia Asbestos Licensing Program. All reports prepared by the unlicensed individual must be signed by the licensed or accredited person in charge, who assumes responsibility; or

2. Experience gained as an inspector as outlined in § 8.1 of these regulations may be substituted for the management planner experience requirements.

C. An applicant with a bachelor's degree in engineering, architecture, industrial hygiene, science or a related field must have at least six months experience as described above. The applicant must submit the Experience and Educational Verification Form (Form A) as noted in § 3.2.

D. An applicant with a two-year associate's degree in engineering, architecture, industrial hygiene, science or a related field must have at least twelve months experience as described above. The applicant must submit the Experience and Educational Form (Form A) as noted in § 3.2.

E. An applicant with a high school diploma must have at least 24 months experience as described above. The applicant must submit the Experience Verification Form as noted in § 3.2.

PART X. ASBESTOS PROJECT DESIGNER LICENSING REQUIREMENTS.

§ 10.1. Duties and functions.

The duties and functions of a project designer include, but are not limited to, preparing an asbestos abatement project design, specifications for asbestos abatement projects and addenda to abatement specifications.

§ 10.2. Qualifications for licensure.

A. Each individual applying to the board for licensing as

Final Regulations

an asbestos project designer shall have the following qualifications:

1. Applicants shall be at least 18 years of age.
2. Applicants shall provide evidence of completion of an EPA/AHERA approved or board approved asbestos project designer training course. All training documents must be submitted in accordance with § 3.1 B.
3. After May 1, 1994, the applicant shall provide proof of experience in the preparation of project designs or project specifications on the Form A as noted in § 3.2.

Experience may be gained for licensure as a project designer as follows:

a. Acting as a project designer prior to September 1, 1993, according to AHERA or the Virginia Asbestos Licensing Program regulations; or

b. Being under the [~~responsible charge~~ direct supervision] of a project designer accredited according to AHERA, or licensed as an project designer by the Virginia Asbestos Licensing Program or another jurisdiction with an Environmental Protection Agency approved accreditation program. All work prepared by the unlicensed individual must be signed by the accredited or licensed designer in charge. The [~~certified~~ accredited] or licensed individual assumes all responsibility for work prepared by the unlicensed individual.

B. An applicant with a Bachelor of Science degree in engineering, architecture, industrial hygiene, physical science or related field must have six months experience as described above. The applicant must submit the Experience and Educational Verification Form (Form A) as noted in § 3.2.

C. An applicant with a two-year associate's degree in engineering, architecture, industrial hygiene, physical science or related field must have 12 months experience as described above. The applicant must submit the Experience and Educational Verification Form (Form A) as noted in § 3.2.

D. An applicant with a high school diploma must have at least 24 months experience as described above. The applicant must the Experience Verification Form as noted in § 3.2.

PART XI. ASBESTOS PROJECT MONITOR LICENSING REQUIREMENTS.

§ 11.1. Duties and functions.

The duties and functions of a project monitor include, but are not limited to, observing and monitoring the

activities of an asbestos abatement contractor or RFS contractor on asbestos projects to determine that proper work practices are used and compliance with all [~~federal~~ and local asbestos] laws and regulations is maintained, collecting environmental air samples during the asbestos project, performing visual inspections of the work area and granting final clearance upon completion of the asbestos project. [Project monitors who determine that proper work practices are not being followed, or that asbestos laws or regulations are not complied with, shall take action in accordance with § 13.1 of these regulations.]

§ 11.2. Abatement projects that require a project monitor.

A project monitor is required on:

1. Asbestos projects, performed in buildings that are occupied or intended to be occupied upon completion of the asbestos project, exceeding 2600 linear feet or 1600 square feet of asbestos containing material; or

2. Whenever the building or property owner deems it necessary to monitor asbestos projects or work performed by an RFS contractor on their property.

§ 11.3. Exemptions.

Asbestos projects in residential buildings are exempt from the project monitor requirements.

§ 11.4. Qualifications for licensure.

A. Each individual applying shall be at least 18 years of age.

B. The applicant must have a high school diploma or an equivalent.

C. An applicant currently certified by the USEPA as a project designer or asbestos supervisor may successfully complete an asbestos project monitor training course of 16 hours and examination.

D. An applicant not currently certified as a project designer or asbestos supervisor shall successfully complete a comprehensive asbestos project monitor training course of 40 hours and examination approved by the board.

E. The applicant shall provide proof of performing 160 hours of asbestos project monitoring training through field work on project sites, including evaluating and monitoring the asbestos work practices. The field work shall also include collecting environmental air samples during the abatement work and granting final clearance by performing visual inspections and collecting aggressive final air samples. The applicant shall submit the Experience Verification Form, as noted in § 3.2, to verify the above experience.

F. Project monitors who analyze PCM air samples

on-site must be employed by a licensed asbestos analytical laboratory [or be registered with the AIHA Asbestos Analytical Registry] .

Experience may be gained to qualify for licensure as follows:

1. Acting as a project monitor after becoming licensed by the department as a project designer or an asbestos supervisor.

2. Being under the direct [charge supervision] of a person acting as a project monitor who is licensed by the board as a project designer or an asbestos supervisor before July 1, 1992, or under the [direct] supervision of a licensed project monitor after January 1, 1992. All reports compiled by an unlicensed project monitor must be signed by the licensed project monitor who is responsible for his supervision. The licensed individual in charge is at all times responsible for the activities of the unlicensed project monitor.

G. An applicant with a bachelor's degree in engineering, architecture, industrial hygiene, science or a related field must have at least 120 hours experience as described. The applicant must submit the Experience and Educational Verification Form (Form A) as noted in § 3.2.

PART XII. ASBESTOS ANALYTICAL LABORATORY LICENSE REQUIREMENTS.

§ 12.1. General.

Asbestos analytical laboratories are required to comply with all requirements, procedures, standards and regulations covering all aspects of asbestos analytical services as established by these regulations.

§ 12.2. License application.

A. Each application shall be signed by an officer or a responsible party of the asbestos analytical laboratory and shall include a certification by the applicant that within the last three years prior to the application date, his license, program accreditation rating or other authorization to analyze asbestos samples has not been suspended or revoked by any jurisdiction, accrediting association or governing agency and that no enforcement action is pending against the applicant. This section applies to all branch facilities of the asbestos analytical laboratory.

B. In the event enforcement actions have been taken against the applicant, the board may deny an applicant's request for a license based on the prior enforcement actions which indicate that the asbestos analytical laboratory or its branch facilities may not be performing its services in a manner that would protect the safety of its employees or public or that the analytical testing results might lack credibility or reliability. In order to

make this determination, the following information will be required:

1. A complete list of all prior enforcement actions, including any sanctions imposed on the applicant by any jurisdiction or any state or federal court.

2. A copy of any reports of enforcement action compiled by an enforcement agency against the applicant.

C. All applications shall be completed according to the instructions provided with the application. Incomplete applications will be returned to the applicant; fees received are not refundable.

§ 12.3. Qualifications for licensure.

Each individual or business applying to the board for licensing as an asbestos analytical laboratory shall have the following qualifications:

1. Applicants shall have all occupational or professional licenses and certifications necessary and required by state statute or local ordinance to transact the business of an asbestos analytical laboratory in addition to those requirements as set forth in these regulations.

2. A license issued by the board will authorize an asbestos analytical laboratory to perform analysis of bulk samples using PLM or TEM analysis, air samples using PCM or TEM analysis or both bulk and air sampling using PLM or PCM or TEM analysis.

3. Analysis of bulk materials:

- a. For licensure to analyze bulk materials using Polarized Light Microscopy (PLM):

- (1) The applicant shall provide evidence that the asbestos analytical laboratory is currently rated as "proficient" by the National Institute of Standards and Technology's National Voluntary Laboratory Accreditation Program. A copy of the NVLAP Certificate of Accreditation and Scope of Accreditation shall be submitted with the application for licensure.

- (2) The asbestos analytical laboratory using PLM to analyze bulk samples shall use the method in accordance with USEPA specifications defined in the Interim Method for the Determination of Asbestos in Bulk Insulation Samples, USEPA 40 CFR Part 763, Appendix A, Subpart F or NIOSH Method 9002.

- b. For licensure to analyze asbestos bulk materials using Transmission Electron Microscopy, the applicant shall provide evidence that the asbestos analytical laboratory is currently rated as "proficient" by the National Institute of Standards

Final Regulations

and Technology's National Voluntary Laboratory Accreditation Program. A copy of the NVLAP Certificate of Accreditation and Scope of Accreditation shall be submitted with the application for licensure. The asbestos analytical laboratory shall participate in all rounds of the program.

4. Analysis of airborne asbestos fibers.

a. For licensure to analyze airborne fiber counts using Phase Contrast Microscopy:

(1) The applicant shall provide evidence that the National Institute for Occupational Safety and Health (NIOSH) has rated all the applicant's facilities in the Proficiency Analytical Testing (PAT) Programs most recent round of asbestos evaluations and has been found "proficient" or has been accredited by the American Industrial Hygiene Association for Asbestos Analytical Services. Each analyst must provide proof of successfully completing the NIOSH 582 Course or equivalent.

(2) The laboratory shall use the method in accordance with OSHA 29 CFR 1910.1001, Appendix A, FR No. 119, 22739, June 20, 1986, or most recent edition of the NIOSH 7400 counting method.

(3) Analysts who analyze air samples on-site [~~must be registered with the AIHA National Analyst Registry, proof of registry must be maintained on-site, or the analysts~~] must be employed by a Virginia licensed Asbestos Analytical Laboratory.

b. The technique used for TEM Analysis of asbestos airborne fiber counting shall be in accordance with USEPA 40 CFR PART 763, Appendix A, Subpart E or NIOSH Method 7402. The applicant shall provide evidence that the asbestos analytical laboratory and its branch facilities are currently rated as "proficient" by the National Institute of Standards and Technology's National Voluntary Laboratory Accreditation Program. A copy of the NVLAP Certificate of Accreditation and Scope of Accreditation shall be submitted with the application for licensure. The asbestos analytical laboratory shall participate in all rounds of the NVLAP program.

§ 12.4. Completed application.

A completed application (as required in § 3.1) shall be accompanied by the required fee. All checks or money orders shall be made payable to the "Treasurer of Virginia." No application will be processed if it is not accompanied by the required fee. The application shall list the type of analyses performed.

§ 12.5. Change of status.

A. The licensee shall notify the board immediately of

any addition or deletion regarding employment of trained and experienced supervisors, and any changes regarding the signing officers or responsible party's relationship with the company.

B. The licensee shall notify the board immediately upon the loss of accreditation or proficiency rating by NVLAP, NIOSH PAT Proficiency Program or AIHA by any laboratory location.

C. The licensee shall notify the board, in writing, within 10 days of the receipt of their most recent proficiency evaluation results. This shall include, but not limited to, NVLAP Accreditation, PAT round results and AIHA evaluation accreditation.

D. The licensee shall notify the board, in writing, if the type of analysis performed is different from the type of analysis in which the initial license was issued. The licensee shall submit a new application reflecting the changes and submit the qualifications required by these regulations to perform the analysis. The above information must be submitted to the board prior to performing the analysis. No additional fees are required to upgrade the analytical laboratory license.

§ 12.6. License certificate.

A. The transfer of an Asbestos Analytical Laboratory License is prohibited. Whenever there is any change in the controlling interest of the legal entity licensed, whether in proprietorship or change of partner in a partnership or the creation of a corporation, a new license is required.

B. A copy of the current Asbestos Analytical Laboratory License will be on site at all times where analysis is performed, including project sites. The license shall be available for review by the department.

C. The board shall require asbestos analytical laboratories that wish to become or remain licensed in the Commonwealth to conform to any future additional standards or regulations set forth by the USEPA or accrediting entity.

D. The board or board representatives shall conduct periodic on-site inspections and evaluations of any licensed asbestos analytical laboratory facility. The inspection shall include, but not be limited to: equipment, procedure and protocol records, training and accreditation documentation and any other program evaluation results on file. Prior notice of such inspections is not required.

PART XIII. STANDARDS OF PRACTICE AND CONDUCT.

§ 13.1. Responsibility to the public.

The primary obligation of the licensee or approved entity is to the public. If the licensee or approved entity's judgement is overruled under circumstances when the

safety, health, property and welfare of the public are endangered, the licensee or approved entity shall inform the employer or client of the possible consequences and notify appropriate authorities if the situation is not resolved. The licensee or approved entity shall take such action only when his authority to correct a problem has been ignored or overruled.

§ 13.2. Public Statements.

A. The licensee or approved entity shall be truthful in all matters relating to the performance of asbestos abatement or asbestos consulting services.

B. When serving as an expert or technical witness, the licensee or approved entity shall express an opinion only when it is based on an adequate knowledge of the facts in issue and on a background of technical competence in the subject matter. Except when appearing as an expert witness in court or an administrative proceeding when the parties are represented by counsel, the licensee or approved entity shall issue no statements, reports, criticisms, or arguments on matters relating to practices which are inspired or paid for by an interested party or parties, unless one has prefaced the comment by disclosing the identities of the party or parties on whose behalf the licensee or approved entity is speaking, and by revealing any self-interest.

C. A licensee or approved entity shall not knowingly make a materially false statement, submit falsified documents or fail to disclose a material fact requested in connection with an application submitted to the board by any individual or business entity for licensure or renewal.

§ 13.3. Solicitation of work.

In the course of soliciting work:

1. The licensee or approved entity shall not bribe.
2. The licensee or approved entity shall not falsify or permit misrepresentation of the licensee or approved entity's work or an associate's academic or professional qualifications, nor shall the licensee or approved entity misrepresent the degree of responsibility for prior assignments. Materials used in the solicitation of employment shall not misrepresent facts concerning employers, employees, associates joint ventures or past accomplishments of any kind.
3. Materials used in the solicitation of services shall not misrepresent facts of approval, federal, or state requirements.

§ 13.4. Professional responsibility.

A. The licensee or approved entity shall, upon request or demand, produce to the board, or any of its representatives, any plan, document, book, record or copy thereof in his possession concerning a transaction covered

by these regulations, and shall cooperate in the investigation of a complaint filed with the board against a licensee or approved entity.

B. A licensee or approved entity shall not use the design, plans or work of another licensee or approved entity without the original professional's knowledge and consent and after consent, a thorough review to the extent that full responsibility may be assumed by the user.

§ 13.5. Good standing in other jurisdictions.

A licensee or approved entity licensed to practice project monitoring, project design, inspections, management planning, training, contractual or supervisor work in other jurisdictions shall be in good standing in every jurisdiction where licensed, certified, or approved and shall not have had a license, certificate or approval suspended, revoked or surrendered in connection with a disciplinary action.

§ 13.6. Prohibited acts.

A. The following may be grounds for disciplinary action by the board:

1. The licensee, training provider, or primary instructor has violated or induced another person to violate any provisions of Chapters 1, 2, 3, or 5 of Title 54.1 of the Code of Virginia, or any provisions of these regulations.
2. The licensee has obtained his license through fraudulent means.
3. The licensee has altered a Virginia Asbestos License issued by the Commonwealth of Virginia or certificate issued by a training provider.
- [4. The licensee, training provider or primary instructor violates any provision of AHERA or ASHARA.]
- [4- 5.] The licensee has been found guilty by the board, an administrative body or by a court of any material misrepresentation in the course of performing his operating duties.
- [5- 6.] The licensee has been convicted or found guilty, regardless of jurisdiction of any felony or violation which resulted in the significant harm or the imminent and substantial threat of significant harm to human health or the environment. Any plea of nolo contendere shall be considered a conviction for the purposes of this regulation. The record of a conviction authenticated in such form as to be admissible in evidence under the laws of the jurisdiction where convicted, shall be admissible as prima facie evidence of such conviction.
- [6- 7.] Failing to notify the board in writing within 30 days of pleading guilty or nolo contendere or being

Final Regulations

convicted or found guilty of any felony which resulted in the significant harm or the imminent and substantial threat of significant harm to human health or the environment.

[7. 8.] Negligence, or a continued pattern of incompetence, in the practice of the discipline in which the asbestos license is held.

[8. 9.] Failing or neglecting to send any information or documentation that was requested by the board or its representatives.

B. Any individual whose license is revoked under this section shall not be eligible to reapply for a period of one year from the effective date of the final order of revocation. The individual shall meet all education, experience and training requirements, complete the application and submit the required fee for consideration as a new applicant.

PART XIV. TRAINING PROVIDER REQUIREMENTS.

§ 14.1. General.

This part outlines the record keeping responsibilities for an individual, a business, an agency, an institution or a sponsor performing asbestos training under Virginia law. All records are required to be available for review by representatives of the board. Records required to be maintained by the training provider must be maintained at the address on the Certificate of Approval of the asbestos training course. All training requirements are in accordance with [AHERA ASHARA] (40 CFR Part 763 [Appendix C to Subpart E]), the EPA April 1990 memorandum or recommended EPA policy.

§ 14.2. Record keeping.

A. For all training courses approved by the board, training providers shall keep a list of all course participants attending the training course. The list shall contain the following minimum information:

1. Training provider;
2. Date of training;
3. Location of training course presentation;
4. Type and length of training;
5. Course director and primary instructor;
6. Course participants name [and signature] as it will appear on the Certificate of Completion to be issued by the training provider;
7. Participants employer, if applicable;

8. Participants name, address and social security number;

9. Participants Virginia asbestos license number, if applicable;

10. The resulting certificate number assigned to a participant who successfully completes the course when applicable [and expiration date] ;

11. The participant's examination score when applicable.

B. The course participant list shall be completed by the training provider and course participants daily.

C. The course participant listing shall be retained by the training provider for three years following the date of completion of the training course.

D. The course participant list shall be submitted to the board within five working days, after the last day of the course.

E. The training provider shall retain all examinations completed by course participants for a period of [~~one~~ ~~year~~ three years] .

§ 14.3. Course outline and syllabus.

A. Prior to the start of the training course, the training provider shall prepare a course outline or syllabus. The outline shall contain the following minimum information:

1. Course title and length of training;
2. Starting time of each day of training;
3. Course section, inclusive length of training time for each section and instructor for each course section;
4. Scheduled breaks and inclusive length of breaks;
5. Scheduled lunch break and inclusive length of break;
6. Scheduled hands-on training, a description of the training to be performed, [inclusive] length of [~~hands-on~~] training and [name of the] instructor(s) [~~of hands on training~~] ;
7. Examination and inclusive length of examination time.

B. The training provider shall disseminate the course outline or syllabus to all course participants. A copy of the course outline shall be retained by the training provider for a period of three years following the completion of the training course.

§ 14.4. Certificates of completion.

A. Following attendance of the training course and successful completion of an examination by the course participant, the training provider shall issue a Certificate of Completion to the course participant. The certificate shall contain the following minimum information:

1. Training provider's business name;
2. Training provider's business address and phone number;
3. Location of training;
4. Typewritten or printed name of course participant;
5. Course title and length of training in hours;
6. Certificate number;
7. Inclusive course dates;
8. Examination date;
9. An expiration date one year subsequent to the date of completion of the training course;
10. For courses covered under 40 CFR 763, Subpart E, Appendix C, a statement [~~of course approval~~ that the person receiving the certificate has completed the requisite training for asbestos accreditation under TSCA Title II] ;
11. Statement of attendance and successful completion of an examination by the course participant;
12. Signature and typewritten or printed name of course director or administrator and primary instructor. The signature may be a printed facsimile.

B. Changes to the Certificate of Completion shall be submitted to the board for review and approval prior to issuance to [a] course [~~participant~~ participants] .

§ 14.5. Course materials: course manuals; video instruction; training equipment.

A. All training course participants shall be issued a course manual for the asbestos training course.

All materials will be legible and, in the case of Virginia approved training courses, submitted for review and approval by the board at least 45 days prior to being used by a course participant in an asbestos training course.

The training provider shall retain a copy on file for a period of three years following any amendments to the manual.

B. Use of video instruction is permitted as a method of instruction in a Virginia approved asbestos training course.

Videos shall not be the primary source of instruction unless it is an interactive video.

All videos utilized in a Virginia approved asbestos training course shall have undergone the review and approval process required in Part XIV of these regulations.

Videos shall be made available to the board, if requested, during an on-site audit or inspection.

C. In no case will equipment utilized for display or part of hands-on training have been utilized on an asbestos abatement project site.

Equipment will be dedicated for training use only.

The training provider shall keep a listing of all equipment utilized for training on file.

The equipment list will contain the following minimum information:

1. Equipment brand name;
2. Equipment description;
3. A statement of how the equipment is to be utilized in the asbestos training course.

The equipment list will be updated as new equipment is added as part of an asbestos training program and retained for a period of three years.

§ 14.6. Approval of [~~primary~~] instructors.

[A.] The qualifications of all [~~primary~~] instructors are required to be reviewed by the board [~~as specified in §§ 14.2, 14.4 and 14.6~~] prior to the instructor teaching in a Virginia approved asbestos training course. If the board deems the instructor's qualifications inadequate, the department will promptly notify the provider. Guest [~~instructors lecturers~~] who do not teach a course on a routine basis are exempt from this section.

[B. Each training provider shall appoint one instructor to act as the primary instructor. The primary instructor will be responsible for the overall training program and act as a point of contact to the board. The training provider shall notify the board in writing of the appointed primary instructor.

C. Training providers shall notify the board in writing whenever it changes course instructors.]

§ 14.7. Number of instructors required to provide training.

A. The board strongly recommends a minimum of two instructors to teach a Virginia approved initial worker course.

B. The board requires at least two instructors for each

Final Regulations

Virginia approved supervisor, inspector, management planner, project designer and project monitor initial course.

C. One instructor is adequate per refresher course.

D. At least one instructor shall be in the class and available to the students at all times during the course.

§ 14.8. Student to instructor ratios.

A. Hands-on training is to be overseen by the instructor at a ratio of no more than 10 students to one instructor.

B. There shall be no more than three course participants in any hands-on exercise, except for hands-on training which involves building containments.

§ 14.9. [Concurrent training of asbestos workers and supervisors Distinct training disciplines] .

[Training of asbestos workers and supervisors in the same classroom setting in a Virginia approved refresher course is prohibited. All initial and refresher asbestos training courses shall be discipline specific.]

[§ 14.10. Supervisor upgrade

The ability of a worker to upgrade his accreditation or license to be a supervisor is permitted if all training needed to upgrade is completed within a single two week time frame from the time of completion of initial training.]

§ [14.11. 14.10.] Completion of training.

The total hours of actual training [; including upgrades;] must be completed within a single two-week time frame, from the [completion start] time of initial training.

§ [14.12. 14.11.] Length of training.

The following are the requirements for length of training for a Virginia approved asbestos training course:

1. In no case shall actual asbestos training exceed eight hours in a 24-hour period.
2. Training given during evening hours (after 5 p.m. and before 8 a.m.) may not exceed four hours.
3. Training performed on weekends (Friday after 5 p.m. to Monday 8 a.m.) may not exceed 16 hours.

§ [14.13. 14.12.] Non-English speaking training courses.

All Virginia approved asbestos training courses shall be taught in English. Asbestos worker training courses are exempt from this section.

§ [14.14. 14.13.] Examinations.

A. All asbestos training courses approved by the board and utilized for licensure by the board shall contain an examination following the instructional portion of the asbestos training course. This requirement shall apply to all Virginia approved courses regardless of course location.

B. Oral examinations, except for workers, are not permitted in a Virginia approved asbestos training course. Trainers who provide worker oral examinations shall issue an answer sheet to be marked by the student. The student shall sign the answer sheet and it shall become a part of the trainers record keeping under § 14.2 E.

C. Examinations in languages other than English are permitted in asbestos worker courses only.

D. Examinations shall be given in the language of course instruction.

E. Reexamination following unsuccessful completion of the examination is permitted in a Virginia approved asbestos training course. The reexamination shall be limited to one attempt to pass following the initial examination. If the participant fails to achieve a 70% passing score after the second attempt, the participant must retake the training course before he is permitted to take a retest. The training provider shall retain all the examinations completed by the course participant in compliance with § 14.2 E.

§ [14.15. 14.14.] Change of address, phone number or contact person.

Training providers approved by the board are required to notify the board [in writing] of changes of address, phone number or primary instructor within 30 business days of changes to these items.

[§ 14.15. Termination of training.

When a board-approved training provider ceases to conduct training, the training provider shall notify the board in writing and give the board the opportunity to take possession of the provider's asbestos training records.

§ 14.16. EPA ASHARA compliance.

All Virginia approved asbestos training providers shall be in compliance with all training and record keeping requirements established by the USEPA Model Accreditation Plan, 40 CFR 763, Subpart E.]

PART XV. TRAINING COURSE APPROVAL PROCESS.

§ 15.1. Training course approval requirements.

The Virginia accreditation program has been granted approval by the United States Environmental Protection Agency under the provisions found in 40 CFR 763 Subpart F. All EPA recognized asbestos training courses approved

by the board will concurrently be granted USEPA approval.

All approved training courses shall meet the minimum requirements as outlined in these regulations. Individuals, businesses, agencies or institutions requesting approval of a proposed asbestos training course to prepare course participants for licensure requirements shall submit a Training Course Review and Audit Application with the following required information:

1. Training provider's business name, physical address, mailing address, and phone number;
2. Copies of approval letters issued by USEPA or other states granting approval to asbestos training courses presented by the training provider;
3. Applicable fee (see the evaluation fee schedule located in Part XVII);
4. The course curriculum;
5. A narrative explanation that states how the course meets the requirements for approval in the following areas:
 - a. Length of training in hours.
 - b. Amount and type of hands-on training.
 - c. Examinations (length, format and passing score).
 - d. Topics covered in the course.
 - e. Assurances of test security and how exams are administered.
6. A copy of all course materials (student manuals, instructor notebooks, handouts, etc).
7. A detailed statement providing information about the development of the examination used in the course.
8. The names and qualifications, including education and experience of each instructor and subject areas that each instructor will teach.
9. A description of and an example of a certificate that will be issued to students who successfully complete the course. The certificate shall contain the information noted in § 14.4.
10. A proposed course date for auditing purposes. The proposed date will be confirmed or an alternate date will be proposed within 10 business days of receipt of a complete training course submission and the required fee.

[14.] A complete submission consists of all items listed

in [§ 15.1, this section.] Receipt of application and deposit of fees by the board in no way indicates approval of a training course.

§ 15.2. Examination.

All courses approved by the board are required to have a monitored, final written examination, except for workers needing an oral examination. The board recommends the examination include a practical component to test skill in asbestos abatement techniques. Students must obtain a minimum exam grade of 70% correct. Records of the participants examination shall be maintained in accordance with § 14.2 E of these regulations.

§ 15.3. Letters of course approval.

Letters of course approval shall be maintained at the business address listed on the course approval letter and made accessible to the public. An approved school shall maintain all records at the business address. The required records shall be available for review upon demand by the board or its representatives.

§ 15.4. Refresher course approval.

Refresher courses shall be one day (eight hours) for supervisors, workers, project designers and project monitors, and one-half day (four hours) for inspectors, management planners and RFS training courses. The refresher course shall review federal and state regulations, discuss changes to the regulations if applicable, developments in state-of-the-art procedures and a review of key aspects of the initial training course.

Individuals, businesses, agencies, or institutions wishing to sponsor refresher training courses shall submit a training course review and audit application required by § 15.1.

§ 15.5. Changes to an approved training course.

Once a training course has been approved, substantial changes in the items listed below must be submitted to the board for review and approval prior to the continuation of the training course. The board will state its approval or disapproval of the changes by mail.

1. Course curriculum
2. Course examination
3. Course materials (as specified in §§ 15.1, 15.2 and 15.4 of these regulations)
4. Primary instructors and course director
5. Certificate of Completion

§ 15.6. Transfer of Virginia approval of an asbestos training course.

Final Regulations

The transfer of a Virginia approved asbestos training course or program by sale of ownership will require a review of the course or program by the following procedure:

1. The transfer of a Virginia approved asbestos training course is subject to review by the board, and requires an application to the board and submission of materials for review to determine if substantive changes have been made to the course or program. All submissions shall be in accordance with § 15.1 or § 15.4 of these regulations.

2. Receipt of applications and deposit of fees submitted to the board does not indicate approval of the transfer.

3. A review of the submitted materials will be performed by the board to ascertain if substantial changes have been made to the training course. A substantial change is defined as a change in course materials, curriculum, primary instructors or facilities at the time of transfer of the asbestos training course or program. The board may conduct a complete field audit of any training course it believes has undergone a substantial change at the cost of the new owner.

§ 15.7. Attendance by the department.

Training course sponsors shall permit department representatives to attend, evaluate, and monitor any training course. Prior notice of attendance by agency representatives is not required.

§ 15.8. Suspension or revocation of approval of a training course.

A. The board may withdraw approval of any approved training course for the following reasons:

1. The school, instructors, or courses no longer meet the standards established in these regulations.
2. The board determines an approved individual, business, agency, institution or sponsor is not conducting the training in a manner that meets the requirements as set forth in these regulations.

B. Suspension or revocation of training approval in another state or by the U.S.E.P.A. may be grounds for suspension or revocation in Virginia.

C. If the approval of a training course is revoked or suspended, the board will promptly notify the individual business, agency, institution, or sponsor in writing of the reason for the suspension or revocation. In the case of a suspension, the steps necessary to comply with the regulations will be stated in writing. Decisions regarding revocation or suspension of approval may be appealed under the Virginia Administrative Process Act (§ 9-6.14:1 et seq. of the Code of Virginia).

PART XVI. TRAINING COURSE REQUIREMENTS.

§ 16.1. General.

In all of the following training course requirements, one day shall be equal to eight hours. In all refresher training course requirements one day shall be equal to eight hours. All training courses, except project monitor, shall meet the minimum requirements set forth in [~~ASHERA~~ ASHARA] (40 CFR Part 763).

§ 16.2. Worker training.

Asbestos abatement workers shall complete at least a [~~three~~ four] day ([24 32] hours) training course as outlined below. All training courses shall be approved by the board. The training course shall include lectures, demonstrations, at least [~~six~~ 14] hours of hands-on training, a course review, and an examination.

The training shall address the following topics:

1. Physical characteristics of asbestos:
 - a. Identification of asbestos.
 - b. Aerodynamic characteristics.
 - c. Typical uses and physical appearance.
 - d. A summary of abatement control options.
2. Potential health effects related to asbestos exposure:
 - a. The nature of asbestos-related diseases.
 - b. Routes of exposure, dose-response relationships and the lack of a safe exposure level.
 - c. Synergism between cigarette smoking and asbestos exposure.
 - d. Latency period for disease.
3. Employee personal protective equipment:
 - a. Classes and characteristics of respirator types.
 - b. Limitations of respirators and their proper selection, inspection, donning, use, maintenance, and storage procedures.
 - c. Methods for field testing of the facepiece-to-face seal (positive and negative pressure fitting tests).
 - d. Qualitative and quantitative fit testing procedures.
 - e. Variability between field and laboratory protection factors.

- f. Factors that alter respirator fit (eg., facial hair).
 - g. The components of a proper respiratory protection program.
 - h. Selection and use of personal protective clothing; use, storage, and handling of nondisposable clothing.
 - i. Regulations covering personal protective equipment.
4. State-of-the-art work practices:
- a. Asbestos abatement activities including descriptions of construction and maintenance of barriers and decontamination enclosure systems.
 - b. Positioning of warning signs.
 - c. Electrical and ventilation system lock-out.
 - d. Working techniques for minimizing fiber release, use of wet methods, use of negative pressure ventilation equipment, use of high efficiency particulate air (HEPA) vacuums.
 - e. Clean-up and disposal procedures.
 - f. Work practices for removal, encapsulation, enclosure, and repair.
 - g. Emergency procedures for sudden releases.
 - h. Potential exposure situations, and transport and disposal procedures.
 - i. Recommended and prohibited work practices.
5. Personal hygiene:
- a. Entry and exit procedures for the work area, use of showers, avoidance of eating, drinking, smoking, and chewing (gum or tobacco) in the work area.
 - b. Potential exposures, such as family exposure.
6. Additional safety hazards:
- a. Hazards encountered during abatement activities and how to deal with them, including electrical hazards, heat stress, air contaminants other than asbestos, fire and explosion hazards.
 - b. Scaffold and ladder hazards.
 - c. Slips, trips and falls.
 - d. Confined spaces.
7. Medical monitoring:
- a. OSHA requirements for a pulmonary function test.
 - b. Chest X-rays and a medical history for each employee.
8. Air monitoring:
- a. Procedures to determine airborne concentrations of asbestos fibers.
 - b. Focusing on how personal air sampling is performed and the reasons for it.
9. Relevant federal, state and local regulatory requirements, procedures and standards, with particular attention directed at relevant USEPA, OSHA, and state regulations concerning asbestos abatement workers and Department of Transportation regulations (49 CFR Part 172 Subpart H), with emphasis on packaging requirements and marking of containers of ACM waste.
10. Establishment of respiratory protection programs.
11. Course review. A review of key aspects of the training course.
- § 16.3. Examinations: Asbestos abatement worker.
- Upon completion of an approved initial training course a closed book examination will be administered. Demonstration testing will also be permitted as part of the examination. Each examination shall cover the topics included in the training course. Persons who pass the examination and fulfill the course requirements will receive a Certificate of Completion as specified in § 14.4. The following are the requirements for an examination:
- 1. 50 Multiple choice questions
 - 2. Passing Score: 70% correct
- § 16.4. Refresher training course.
- A. Refresher courses shall be one day (eight hours) for asbestos abatement workers. The course shall review federal and state regulations, discuss changes to the regulations if applicable and developments in state-of-the-art procedures. A review of the following topics from the initial course:
- 1. Potential health effects related to asbestos exposure;
 - 2. Employee personal protective equipment;
 - 3. State-of-the-art work practices (with emphasis on work practices for removal, encapsulation, enclosure and repair and proper working techniques for minimizing fiber release, use of wet methods, use of negative pressure ventilation equipment and the use of high efficiency particulate air (HEPA) vacuums);

Final Regulations

4. Personal hygiene.

5. Additional safety hazards.

B. A written closed book examination shall be included in the refresher course. The examination will consist of no fewer than 50 questions. The passing score will be 70% correct. Persons who pass the examination and fulfill the course requirements will receive a Certificate of Completion as specified in § 14.4.

§ 16.5. Supervisor training.

Asbestos abatement supervisors shall complete a [~~four~~ five] day ([32 40] hours) training course as outlined below. The training course shall include lecture, demonstrations, course review, examination, and at least [~~six~~ 14] hours of hands-on training which allows supervisors the experience of performing actual tasks associated with asbestos abatement. The supervisor's training course shall address the following topics:

1. The role of the supervisor in the asbestos abatement process.

2. The physical characteristics of asbestos and asbestos-containing materials:

- a. Identification of asbestos.
- b. Aerodynamic characteristics.
- c. Typical uses, physical appearance.

d. A review of hazard assessment considerations.

e. A summary of abatement control options.

3. Potential health effects related to asbestos exposure:

- a. The nature of asbestos-related diseases.
- b. Routes of exposure, dose-response relationships and the lack of a safe exposure level.
- c. Synergism between cigarette smoking and asbestos exposure.
- d. Latency period for disease.

4. Employee personal protective equipment:

- a. Classes and characteristics of respirator types.
- b. Limitations of respirators and their proper selection, inspection, donning, use, maintenance and storage procedures.
- c. Methods for field testing of the facepiece-to-face seal (positive and negative pressure fitting tests).

d. Qualitative and quantitative fit testing procedures.

e. Variability between field and laboratory protection factors.

f. Factors that alter respirator fit (e.g., facial hair, dental work, weight loss or gain).

g. The components of a proper respiratory protection program.

h. Selection and use of personal protective clothing; use, storage and handling of nondisposable clothing.

i. Regulations covering personal protective equipment.

5. State-of-the-art work practices:

a. Work practices for asbestos abatement activities including descriptions of proper construction and maintenance of barriers and decontamination enclosure systems.

b. Positioning of warning signs.

c. Electrical and ventilation system lock-out.

d. Working techniques for minimizing fiber release, use of wet methods, use of negative pressure ventilation equipment, use of high efficiency particulate air (HEPA) vacuums.

e. Clean-up and disposal procedures.

f. Work practices for removal, encapsulation, enclosure and repair.

g. Emergency procedures for sudden releases.

h. Potential exposure situations.

i. Transport and disposal procedures.

j. Recommended and prohibited work practices.

k. Discussion of new abatement related techniques and methodologies.

6. Personal hygiene:

a. Entry and exit procedures for the work area; use of showers; and avoidance of eating, drinking, smoking, and chewing (gum or tobacco) in the work area.

b. Potential exposures, such as family exposure, shall also be included.

7. Additional safety hazards:

- a. Hazards encountered during abatement activities and how to deal with them, including electrical hazards, heat stress, air contaminants other than asbestos, fire and explosion hazards.
 - b. Scaffold and ladder hazards.
 - c. Slips, trips and falls.
 - d. Confined spaces.
8. Medical monitoring. OSHA requirements for a pulmonary function test, chest X-rays and a medical history for each employee.
9. Air monitoring:
- a. Procedures to determine airborne concentration of asbestos fibers, including a description of aggressive sampling, sampling equipment and methods.
 - b. Reasons for air monitoring.
 - c. Types of samples and interpretation of results, specifically from analysis performed by polarized light, phase-contrast, and electron microscopy analyses.
10. Relevant federal, state, and local regulatory requirements, procedures and standards including:
- a. Requirements of TSCA Title II.
 - b. 40 CFR Part 61 National Emission Standards for Hazardous Air Pollutants, Subparts A (General Provisions) and M (National Emission Standards for Asbestos).
 - c. OSHA Standards for permissible exposure to airborne concentrations of asbestos fibers and respiratory protection (29 CFR Part 1910.134).
 - d. OSHA Asbestos Construction Standard (29 CFR Part 1926.58).
 - e. USEPA Worker Protection Rule, 40 CFR Part 763, Subpart G.
 - f. Section 8.1 of the Virginia Solid Waste Management Regulations, (VR 672-20-10).
 - g. 49 CFR Part 172 Subpart H Department of Transportation regulations covering packaging, proper marking of shipping containers and shipping papers.
11. A review of NESHAP Guidance Documents:
- a. Common Questions on the Asbestos NESHAP.
 - b. Asbestos NESHAP: Regulated Asbestos Containing Materials Guidance (EPA 340/1-90-018).
 - c. Asbestos/NESHAP: Adequately Wet Guidance (EPA 340/1-90-019).
 - d. Reporting and Record Keeping Requirements for Waste Disposal: A Field Guide (EPA 340/1-90-016).
12. Respiratory protection programs and medical surveillance programs.
13. Insurance and liability issues:
- a. Contractor issues, worker's compensation coverage, and exclusions.
 - b. Third-party liabilities and defenses.
 - c. Insurance coverage and exclusions.
14. Record keeping for asbestos abatement projects:
- a. Records required by federal, state, and local regulations.
 - b. Records recommended for legal and insurance purposes.
15. Supervisory techniques for asbestos abatement activities. Supervisory practices to enforce and reinforce the required work practices and to discourage unsafe work practices.
16. Contract specifications. Discussions of key elements that are included in contract specifications.
17. Course review. A review of key aspects of the training course.
- § 16.6. Examinations: Asbestos abatement supervisors.
- Upon completion of an approved initial training course a closed book examination will be administered. Demonstration testing will also be permitted as part of the examination. Each examination shall cover the topics included in the training course. Persons who pass the examination and fulfill the course requirements will receive a Certificate of Completion as specified in § 14.4. The following are the requirements for an examination:
1. 100 Multiple choice questions
 2. Passing Score: 70% correct
- § 16.7. Refresher training course.
- A. Refresher courses shall be one day (eight hours) for asbestos abatement supervisors. The course shall review federal and state regulations, discuss changes to the regulations if applicable and developments in

Final Regulations

state-of-the-art procedures. A review of the following topics from the initial course shall be included in the asbestos supervisor refresher course:

1. Potential health effects related to asbestos exposure;
2. Employee personal protective equipment; including medical monitoring and respiratory protection program.
3. State-of-the-art work practices (with emphasis on work practices for removal, encapsulation, enclosure and repair and proper working techniques for minimizing fiber release, use of wet methods, use of negative pressure ventilation equipment and the use of high efficiency particulate air (HEPA) vacuums);
4. Additional safety hazards and medical monitoring;
5. Review of the Asbestos NESHAP, OSHA and DOT requirements.
6. Review of Virginia regulations concerning asbestos licensing, removal and disposal.

B. A written closed book examination shall be included in the refresher course. The examination will consist of no fewer than 50 questions. The passing score will be 70% correct. Persons who pass the refresher course examination will receive a Certificate of Completion. The certificate shall conform to § 14.4.

§ 16.8. Inspector training.

A. Asbestos inspectors shall complete a three-day (24 hours) training course as outlined below. The course shall include lectures, demonstrations, four hours of hands-on training, course review and a written examination. The inspector training course shall address the following topics:

1. Course overview:
 - a. The role of the inspector in the asbestos abatement industry.
 - b. A discussion of inspection requirements and criteria for AHERA, NESHAPs and state agencies.
2. Background information on asbestos:
 - a. Identification of asbestos, and examples and discussion of the uses and locations of asbestos in buildings.
 - b. Physical appearance of asbestos.
3. Potential health effects related to asbestos exposure:
 - a. The nature of asbestos-related diseases.
 - b. Routes of exposure, dose-response relationships

and the lack of a safe exposure level.

- c. The synergism between cigarette smoking and asbestos exposure.
 - d. Latency period for asbestos-related diseases, a discussion of the relationship of asbestos exposure to asbestosis, lung cancer, mesothelioma and cancer of other organs.
4. Functions/qualifications for inspectors:
 - a. Discussions of prior experience and qualifications for inspectors and management planners.
 - b. Discussions of the functions of an accredited inspector as compared to those of an accredited management planner.
 - c. Discussion of the inspection process including inventory of ACM and physical assessment.
 5. Legal liabilities and defenses:
 - a. Responsibilities of the inspector, a discussion of comprehensive general liability policies, claims made and occurrence policies, environment and pollution liability policy clauses; state liability insurance requirements.
 - b. Bonding and relationship of insurance availability to bond availability.
 6. Understanding building systems:
 - a. The relationship between building systems, including: an overview of common building physical plan layout; heat, ventilation and air conditioning (HVAC) system types; physical organization; and where asbestos is found on HVAC components.
 - b. Building mechanical systems, their types and organization and where to look for asbestos on such systems.
 - c. Inspecting electrical systems, including appropriate safety precautions.
 - d. Reading building plans and as-built drawings.
 7. Public/employee/building occupant relations:
 - a. Notification of employee organizations about the inspection.
 - b. Signs to warn building occupants.
 - c. Tactics in dealing with occupants and the press.
 - d. Scheduling inspections to minimize disruptions.

- e. Education of building occupants about actions being taken.
8. Preinspection planning and review of previous inspection records:
- a. Scheduling the inspection and obtaining access.
 - b. Building record review; identification of probable homogeneous areas from building plans or as-built drawings.
 - c. Consultation with maintenance or building personnel.
 - d. Review of previous inspection, sampling, and abatement records of a building.
 - e. The role of the inspector in exclusions for previously performed inspections.
9. Inspection for friable and nonfriable asbestos-containing material (ACM) and assessment of the condition of friable ACM:
- a. Procedures to follow in conducting visual inspections for friable and nonfriable ACM.
 - b. Types of building materials that may contain asbestos.
 - c. Touching materials to determine friability.
 - d. Open return air plenums and their importance in HVAC systems.
 - e. Assessing damage, significant damage, potential damage, and potential significant damage.
 - f. Amount of suspected ACM, both in total quantity and as a percentage of the total area.
 - g. Type of damage.
 - h. Accessibility.
 - i. Material's potential for disturbance.
 - j. Known or suspected causes of damage or significant damage, and deterioration as assessment factors.
10. Bulk sampling/documentation of asbestos in schools:
- a. Detailed discussion of the "Simplified Sampling Scheme for Friable Surfacing Materials" (USEPA 560/5-85-030a October 1985).
 - b. Techniques to ensure sampling in a randomly distributed manner for other than friable surfacing materials.
- c. Techniques for bulk sampling.
 - d. Sampling equipment the inspector should use.
 - e. Patching or repair of damage done in sampling; an inspector's repair kit.
 - f. Discussion of polarized light microscopy.
 - g. Choosing an accredited laboratory to analyze bulk samples.
 - h. Quality control and quality assurance procedures.
11. Inspector respiratory protection and equipment:
- a. Classes and characteristics of respirator types.
 - b. Limitations of respirators.
 - c. Selection, inspection, donning, use, maintenance, and storage procedures for respirators.
 - d. Methods for field testing of the facepiece-to-face seal (positive and negative pressure fitting tests); qualitative and quantitative fit testing procedures.
 - e. Variability between field and laboratory protection factors.
 - f. Factors that alter respirator fit (e.g., facial hair, dental work, weight loss or gain).
 - g. The components of a proper respiratory protection program.
 - h. Selection and use of personal protective clothing.
 - i. Use, storage, and handling of nondisposable clothing.
12. Record keeping and writing the inspection report:
- a. Labeling of samples and keying sample identification to sampling location.
 - b. Recommendations on sample labeling.
 - c. Detailing of ACM inventory.
 - d. Photographs of selected sampling areas and examples of ACM condition.
 - e. Information required for inclusion in the management plan by TSCA Title II section 203 (i)(1).
13. Regulatory review:

Final Regulations

a. USEPA Worker Protection Rule found at 40 CFR Part 763, Subpart G.

b. TSCA Title II.

c. OSHA Asbestos Construction Standard (29 CFR Part 1926.58).

d. OSHA respirator requirements (29 CFR Part 1910.134).

e. The friable ACM in Schools Rule found at 40 CFR Part 763 Subpart F.

f. Applicable state and local regulations.

g. Differences in federal and state requirements where they apply and the effects, if any, on public and nonpublic schools [, and commercial and public buildings] .

14. Field trip:

a. Including a field exercise with a walk-through inspection.

b. On-site discussion of information gathering and determination of sampling locations.

c. On-site practice in physical assessment.

d. Classroom discussion of field exercise.

15. Course review. A review of key aspects of the training course.

§ 16.9. Examinations: asbestos inspectors.

Upon completion of an approved inspector training course, a closed book examination will be administered. Each examination shall cover the topics included in the inspector training course. Persons who pass the examination and fulfill course requirements will receive a Certificate of Completion as specified in § 14.4. The following are the requirements for examination:

1. 100 Multiple choice questions

2. Passing Score: 70% correct

§ 16.10. Refresher training course.

A. Refresher courses shall be one-half day (four hours) for inspectors. The course shall review federal and state regulations, discuss changes to the regulations if applicable, and review developments in state-of-the-art procedures. A review of the following topics from the initial course shall be included in the asbestos inspector refresher course:

1. Inspection for friable and nonfriable asbestos-containing material (ACM) and assessment of

the condition of friable ACM.

2. Bulk sampling/documentation of asbestos in schools.

3. Reinspection and reassessment techniques.

B. The use of exercises to encourage interactive learning and participation is suggested. These exercises may take the form of reviewing building plans, inspection reports, a video or photo walk-through of an area to be inspected and written interviews with maintenance personnel to draw upon items covered in the initial inspector course.

C. A written closed book examination will be administered covering the topics included in the asbestos inspector refresher training course. The examination will consist of no fewer than 50 questions. The passing score will be 70% correct. Persons who pass the asbestos inspector refresher training course examination will receive a Certificate of Completion as specified in § 14.4.

§ 16.11. Asbestos management planner training.

Asbestos management planners seeking accreditation must complete an inspector training course as outlined above and a two-day management planner training course. The two-day training program shall include lectures, demonstrations, course review, and a written examination. The management planner training course shall address the following topics:

1. Course overview:

a. The role of the management planner.

b. Operations and maintenance programs.

c. Setting work priorities; protection of building occupants.

2. Evaluation/interpretation of survey results:

a. Review of TSCA Title II requirements for inspection and management plans as given in section 203(i)(1) of TSCA Title II.

b. Summarized field data and laboratory results; comparison between field inspector's data sheet with laboratory results and site survey.

3. Hazard assessment:

a. Amplification of the difference between physical assessment and hazard assessment.

b. The role of the management planner in hazard assessment.

c. Explanation of significant damage, damage, potential damage, and potential significant damage and use of a description (or decision tree) code for

assessment of ACM; assessment of friable ACM.

d. Relationship of accessibility, vibration sources, use of adjoining space, air plenums and other factors to hazard assessment.

4. Legal implications:

a. Liability; insurance issues specific to management planners.

b. Liabilities associated with interim control measures, in-house maintenance, repair, and removal.

c. Use of results from previous inspections.

5. Evaluation and selection of control options:

a. Overview of encapsulation, enclosure, interim operations and maintenance, and removal; advantages and disadvantages of each method.

b. Response actions described via a decision tree or other appropriate method; work practices for each response action.

c. Staging and prioritizing of work in both vacant and occupied buildings.

d. The need for containment barriers and decontamination in response actions.

6. Role of other professionals:

a. Use of industrial hygienists, engineers and architects in developing technical specifications for response actions.

b. Any requirements that may exist for an architect to sign-off on plans.

c. Team approach to designing of high-quality job specifications.

7. Developing an operations and maintenance (O&M) plan:

a. Purpose of the plan.

b. Discussion of applicable USEPA guidance documents.

c. What actions should be taken by custodial staff: proper cleaning procedures; steam cleaning and high efficiency particulate aerosol (HEPA) vacuuming.

d. Reducing disturbance of ACM.

e. Scheduling O&M for off-hours; rescheduling or canceling renovation in areas with ACM.

f. Boiler room maintenance.

g. Disposal of ACM.

h. In-house procedures for ACM: bridging and penetrating encapsulants, pipe fittings, metal sleeves, poly vinyl chloride (PVC), canvas, and wet wraps; muslin with straps; fiber mesh cloth; mineral wool, and insulating cement.

i. Discussion of employee protection programs and staff training.

j. Case study in developing an O&M plan (development, implementation process, and problems that have been experienced).

8. Regulatory review:

a. Focusing on the OSHA Asbestos Construction Standard found in 29 CFR Part 1926.58.

b. The National Emission Standard for Hazardous Air Pollutants (NESHAPS) found at 40 CFR Part 61, Subparts A (General Provisions) and M (National Emission Standard for Asbestos).

c. USEPA Worker Protection Rule found in 40 CFR Part 763, Subpart G; TSCA Title II.

d. Applicable state regulations.

9. Record keeping for the management planner:

a. Use of field inspector's data sheet along with laboratory results.

b. On-going record keeping as a means to track asbestos disturbance.

c. Procedures for record keeping.

10. Assembling and submitting the management plan:

a. Plan requirements in TSCA Title II section 203(i)(1).

b. The management plan as a planning tool.

11. Financing abatement actions:

a. Economic analysis and cost estimates.

b. Development of cost estimates.

c. Present costs of abatement versus future operations and maintenance costs.

d. Asbestos School Hazard Abatement Act grants and loans.

Final Regulations

12. A review of key aspects of the training course.

§ 16.12. Examinations: Asbestos management planners.

Upon completion of an approved management planner training course, a closed book examination will be administered. Each examination shall cover the topics included in the management planner training course. Persons who pass the examination and fulfill course requirements will receive a Certificate of Completion as specified in § 14.4. The following are the requirements for examination:

1. 100 Multiple choice questions
2. Passing Score: 70% correct

§ 16.13. Refresher training course.

A. Management planners shall attend the inspector refresher course of one-half day (four hours) plus an additional half-day (four hours) on management planning. The course shall review federal and state regulations, discuss changes if applicable, and review developments in state-of-the-art procedures. A review of the following topics from the initial management planner training course shall be included in the asbestos management planner refresher training course:

1. Evaluation and interpretation of survey results.
2. Hazard assessment.
3. Evaluation and selection of control options.
4. Developing an Operations and Maintenance plan.

B. The use of exercises to encourage interactive learning and participation is suggested. These exercises may take the form of reviewing inspection reports, a video or photo walk-through of a building to have a management plan prepared for and a review of reinspection or abatement reports to update or prepare a management plan to draw upon items covered in the inspector course and the initial management planner course.

C. A written closed book examination will be administered covering the topics included in the asbestos inspector refresher course. The examination will consist of no fewer than 50 questions. The passing score will be 70% correct. Persons who pass the asbestos management planner refresher training course examination will receive a Certificate of Completion as specified in § 14.4.

§ 16.14. Asbestos project [~~designers~~ designer training] .

[A.] Asbestos project designers shall complete a three-day asbestos project designer training course as outlined below. The three-day asbestos project designer training program shall include lectures, demonstrations, a field trip, course review, and a written examination. The

three-day asbestos project designer training course shall address the following topics:

1. Course overview:

- a. The role of the project designer in the asbestos abatement industry.
- b. Discussion of what a project design is.

2. Background information on asbestos:

- a. Identification of asbestos; examples and discussion of the uses and locations of asbestos in buildings.
- b. Physical appearance of asbestos.

3. Potential health effects related to asbestos exposure:

- a. Nature of asbestos-related diseases.
- b. Routes of exposure, dose-response relationships and the lack of a safe exposure level.
- c. The synergistic effect between cigarette smoking and asbestos exposure.
- d. The latency period of asbestos-related diseases; a discussion of the relationship between asbestos exposure and asbestosis, lung cancer, mesothelioma, and cancer of other organs.

4. Overview of abatement construction projects:

- a. Abatement as a portion of a renovation project.
- b. OSHA requirements for notification of other contractors on a multi-employer site (29 CFR 1926.58).

5. Safety system design specifications:

- a. Construction and maintenance of containment barriers and decontamination enclosure systems.
- b. Positioning of warning signs.
- c. Electrical and ventilation system lock-out.
- d. Proper working techniques for minimizing fiber release.
- e. Entry and exit procedures for the work area, use of wet methods, use of negative pressure exhaust ventilation equipment, use of high efficiency particulate aerosol (HEPA) vacuums, proper clean-up and disposal of asbestos, work practices as they apply to encapsulation, enclosure, and repair, use of glove bags and a demonstration of glove bag use.

6. Field trip:

- a. Visit an proposed abatement site or other suitable building site, including on-site discussions of abatement design.
- b. Building walk-through inspection, and discussion following the walk-through.

7. Employee personal protective equipment:

- a. Classes and characteristics of respirator types.
- b. Limitations of respirators, proper selection, inspection, donning, use, maintenance, and storage procedures.
- c. Methods for field testing of the face-to-facepiece seal (positive and negative pressure fitting tests).
- d. Qualitative and quantitative fit testing procedures.
- e. Variability between field and laboratory protection factors, factors that alter respirator fit (e.g., facial hair dental work and weight loss or gain).
- f. Components of a proper respiratory protection program.
- g. Selection and use of personal protective clothing, use, storage and handling of nondisposable clothing.
- h. Regulations covering personal protective equipment.

8. Additional safety hazards:

- a. Hazards encountered during abatement activities and how to deal with them.
- b. Electrical hazards, heat stress, air contaminants other than asbestos, fire and explosion hazards.

9. Fiber aerodynamics and control:

- a. Aerodynamic characteristics of asbestos fibers.
- b. Importance of proper containment barriers.
- c. Settling time for asbestos fibers.
- d. Wet methods in abatement.
- e. Aggressive air monitoring following abatement.
- f. Aggressive air movement and negative pressure exhaust ventilation as a clean-up method.

10. Designing abatement solutions.

- a. Discussions of removal, enclosure, and encapsulation methods.

- b. Asbestos waste disposal.

11. Budgeting/cost estimation.

- a. Development of cost estimates.
- b. Present costs of abatement versus future operations and maintenance costs.
- c. Setting priorities for abatement jobs to reduce cost.

12. Writing abatement specifications.

- a. Means and methods specifications versus performance specifications.
- b. Design of abatement in occupied buildings.
- c. Modification of guide specifications to a particular building.
- d. Worker and building occupant health/medical considerations.
- e. Replacement of ACM with non-asbestos substitutes.
- f. Clearance of work area after abatement.
- g. Air monitoring for clearance.

13. Preparing abatement drawings:

- a. Use of as-built drawings.
- b. Use of inspection photographs and on-site reports.
- c. Particular problems in abatement drawings.

14. Contract preparation and administration.

15. Legal/liabilities/defenses.

- a. Insurance considerations, bonding, hold harmless clauses, use of abatement contractor's liability insurance.
- b. Claims-made versus occurrence policies.

16. Replacement of asbestos with asbestos-free substitutes.

17. Role of other consultants:

- a. Development of technical specification sections by industrial hygienists or engineers.
- b. The multi-disciplinary team approach to

Final Regulations

abatement design.

c. The use and responsibilities of a project monitor on the abatement site.

18. Occupied buildings.

a. Special design procedures required in occupied buildings.

b. Education of occupants.

c. Extra monitoring recommendations.

d. Staging of work to minimize occupant exposure.

e. Scheduling of renovation to minimize exposure.

19. Relevant federal, state and local regulatory requirements. Procedures and standards including:

a. Requirements of TSCA Title II.

b. 40 CFR Part 61, National Emission Standards for Hazardous Air Pollutants, Subparts A (General Provisions) and M (National Emission Standard for Asbestos).

c. OSHA standards for permissible exposure to airborne concentrations of asbestos fibers and respiratory protection (29 CFR Part 1910.134).

d. USEPA Worker Protection Rule, found at 40 CFR Part 763, Subpart G.

e. OSHA Asbestos Construction Standard found at 29 CFR Part 1926.58.

[f. OSHA Hazard Communication Standard found in 29 CFR Part 1926.59.]

20. A review of key aspects of the training course.

§ 16.15. Examinations: asbestos project designers.

Upon completion of an approved asbestos project designer training course, a closed book examination will be administered. Each examination shall cover the topics included in the asbestos project designer training course. Persons who pass the examination and fulfill course requirements will receive a Certificate of Completion as specified in § 14.4. The following are the requirements for examination:

1. 100 Multiple choice questions
2. Passing Score: 70% correct

§ 16.16. Refresher training course.

A. Project Designer Refresher Training shall be one day

(eight hours) in length. The course shall review federal and state regulations, discuss changes to the regulations if applicable, and review developments in state-of-the-art procedures. A review of the following topics from the initial project designer training course shall be included in the asbestos project designer refresher Training Course:

1. Safety system design specifications.
2. Writing abatement specifications.
3. Employee personal protective equipment.
4. Budgeting and cost estimation.

B. The use of exercises to encourage interactive learning and participation is suggested. These exercises may take the form of reviewing inspection reports, a video or photo walk-through of a building to prepare a response action, a review of a mock-up cost list of equipment and materials utilized for various response actions to be designed within certain budget constraints and recommending a response action based upon the cost, budget and material condition constraints.

C. A written closed book examination will be administered covering the topics included in the asbestos project designer refresher courses. The examination will consist of no fewer than 50 questions. The passing score will be 70% correct. Persons who pass the asbestos project designer refresher training course will receive a Certificate of Completion as specified in § 14.4.

§ 16.17. Project monitor training.

A. Asbestos Abatement Project Monitors shall complete a five-day (40 hours) training course as outlined below. All training courses shall be approved by the department. The training course shall include lecture, demonstrations, course review, examination, and at least six hours of hands-on training which allows project monitors the experience of performing actual tasks associated with asbestos project monitoring. Those applicants who hold current supervisors or project designers certification need not complete the entire 40-hour training course but may complete the 16-hour portion of the course beginning at topic number 11 and take the examination. The comprehensive 40-hour project monitor training course shall address the following topics:

1. The physical characteristics of asbestos and asbestos-containing materials:
 - a. Identification of asbestos.
 - b. Typical uses and locations in buildings, physical appearance.
 - c. A review of hazard assessment control options.
 - d. A summary of abatement control options.

2. Potential health effects related to asbestos exposure:

- a. The nature of asbestos-related diseases.
- b. Routes of exposure, dose-response relationships and the lack of a safe exposure level.
- c. Synergism between cigarette smoking and asbestos exposure.
- d. Latency period for disease; a discussion of the relationship between asbestos exposure and asbestosis, lung cancer, mesothelioma, and cancer of the other organs.

3. Employee personal protective equipment:

- a. Classes and characteristics of respirator types.
- b. Limitations of respirators and their proper selection, inspection, donning, use, maintenance and storage procedures.
- c. Methods for field testing of the face piece-to-face seal (positive and negative pressure fitting tests).
- d. Qualitative and quantitative fit testing procedures.
- e. Variability between field and laboratory protection factors.
- f. Factors that alter respirator fit (e.g. facial hair, dental work, weight loss or gain).
- g. The components of a proper respiratory protection program.
- h. Selection and uses of personal protective clothing; use, storage, and handling of nondisposable clothing.
- i. Regulations covering personal protection equipment.

4. State of the art work practices:

- a. Work practices for asbestos abatement activities including description of proper construction and maintenance barriers and decontamination enclosure systems.
- b. Positioning of warning signs.
- c. Electrical and ventilation system lock-out.
- d. Working techniques for minimizing fiber release, use of wet methods, use of negative pressure ventilation equipment, use of high efficiency particulate air (HEPA) vacuums. Entry and exit procedures for work area.
- e. Clean-up and disposal procedures.

f. Work practices for removal, encapsulation, enclosure and repair. Use of glove bags and a demonstration of glove bag use.

g. Emergency procedures for sudden release.

h. Potential exposure situations.

i. Transport and disposal procedures.

j. Recommended and prohibited work practices.

k. Discussion of new abatement related techniques and methodologies.

5. Personal hygiene:

a. Entry and exit procedures for the work area; use of showers; avoidance of eating, drinking, smoking, and chewing (gum or tobacco) in the work area.

b. Potential exposures, such as family exposure, shall also be included.

6. Additional safety hazards as covered in OSHA CFR 1926 and 1910 to include:

a. Hazards encountered during the abatement activities and how to deal with them, including electrical hazards, heat stress, air contaminants other than asbestos, fire, and explosion hazards.

b. Scaffold and ladder hazards.

c. Slips, trips and falls.

d. Confined spaces.

7. Medical monitoring. OSHA requirements for a pulmonary function test, chest x-rays and a medical history for each employee.

8. Respiratory protection programs and medical surveillance programs.

9. Insurance and liability issues:

a. Contractor issues, worker's compensation coverage, and exclusions.

b. Third-party liabilities and defenses.

c. Insurance coverage and exclusions.

10. Relevant federal, state and local regulatory requirements, procedures and standards including;

a. Requirements of TSCA Title II.

b. 40 CFR Part 61 National Emission Standards for Hazardous Air Pollutants, Subparts A (General

Final Regulations

Provisions) and M (National Emission Standards for Asbestos).

c. OSHA Standards for permissible exposure to airborne concentrations of asbestos fibers and respiratory protection (29 CFR Part 1910.134).

d. OSHA Asbestos Construction Standard (29 CFR Part 1926.58).

e. OSHA Hazard Communication Standard (29 CFR Part 1926.59).

f. USEPA Worker Protection Rule, 40 CFR Part 763, Subpart G.

g. Section 8.1 of the Virginia Solid Waste Management Regulations (VR 672-20-10).

h. DOT 49 CFR Part 171 and Part 172 Subpart H.

i. Virginia asbestos licensing regulations.

B. The material outlined below encompasses the 16-hour project monitor training course. Those applicants who are currently accredited as supervisors or project designers need only to complete this 16-hour project monitors course and examination. The comprehensive 40-hour project monitor training program includes the preceding topics and continues below.

1. Air monitoring:

a. NIOSH Asbestos Monitoring Procedure. Procedures to determine airborne concentration of asbestos fibers, including a description of aggressive sampling, sampling equipment and methods.

(1) Explanation of analytical methods, measures of precision, control of errors, collecting measurement samples, fiber counts, sampling and calibration equipment, statistics, quality control techniques in sampling.

(2) Review of OSHA Asbestos Regulations 29 CFR Part 1926, Subpart F, 1-6.

b. Sampling strategy:

(1) Why samples are taken.

(2) Sampling inside and outside of containment area.

(3) Placement of pumps.

c. Reasons for air monitoring.

d. Types of samples and interpretation of results, specifically from analysis performed by polarized light, phase-contrast, and electron microscopy analyses.

e. Final clearance

2. Overview of supervisory techniques for asbestos abatement activities to include the information covered in the asbestos supervisor's training course. A review of the required work practices and safety considerations.

3. Field Trip:

a. Visit a proposed abatement site or other suitable building site, including on-site discussions of abatement design.

b. Building walk-through inspection, and discussion following the walk through.

4. Fiber aerodynamics and control:

a. Aerodynamic characteristics of asbestos fibers.

b. Importance of proper containment barriers.

c. Settling time for asbestos fibers.

d. Wet methods in abatement.

e. Aggressive air monitoring following abatement.

f. Aggressive air movement and negative pressure exhaust ventilation as a clean-up method.

5. Project specifications. Discussion of key elements that are included in contract specifications.

a. Means and methods specifications versus performance specifications.

b. Considerations for design of abatement in occupied buildings.

c. Worker and building occupant health/medical considerations.

d. Replacement of ACM with non-asbestos substitutes.

e. Clearance of work area after abatement.

f. Use of as-built drawings.

g. Use of inspection photographs and on-site reports.

h. Particular problems in abatement drawings.

6. Conducting inspections:

a. Inspection prior to containment to assure condition of items and proper pre-cleaning.

b. Inspection of containment prior to commencement

of abatement to assure that containment is complete and proper.

c. Daily work and containment inspections

d. Final visual inspection and a discussion of the ASTM E1368 method.

7. Record keeping and documentation:

a. Project logs.

b. Inspection reports.

c. Waste Shipment Record Requirements (WSR).

d. Record keeping required by federal, state or local regulations.

e. Record keeping required for insurance purposes.

8. Role of project monitor in relation to:

a. Building owner.

b. Building occupants.

c. Abatement contractor.

d. other consultants.

9. Occupied buildings.

a. Special procedures recommended in occupied buildings.

b. Extra monitoring recommendations.

10. A review of NESHAP Guidance Documents:

a. Common Questions on the Asbestos NESHAP.

b. Asbestos NESHAP: Regulated Asbestos Containing Materials Guidance (EPA 340/1-90-018).

c. Asbestos NESHAP: Adequately Wet Guidance (EPA 340/1-90-019).

11. A review of key aspects of the training course.

12. Examination.

§ 16.18. Examination: asbestos project monitors.

Upon completion of an approved asbestos project monitor training course, a closed book examination will be administered. Each examination shall cover the topics included in the project monitoring training course. Persons who pass the examination and fulfill course requirements will receive a Certificate of Completion as specified in § 14.4. The following are the requirements for examination.

1. 100 multiple choice questions

2. Passing score: 70% correct

§ 16.19. Refresher training course.

A. Project monitor refresher training shall be one day (eight hours). The course shall review federal and state regulations, discuss changes to the regulations if applicable, and review developments in state-of-the-art procedures. A review of the following topics from the initial project monitor training course shall be included in the asbestos project monitor refresher training course:

1. State-of-the-art work practices.

2. Occupied buildings.

3. Employee personal protective equipment.

4. Fiber aerodynamics and control.

5. Record keeping and documentation.

B. The use of exercises to encourage interactive learning and participation is suggested. These exercises may take the form of reviewing inspection reports, a video or photo walk-through of a building to determine a sampling strategy, a review of a mock-up abatement area to determine that containment is adequate, or review of a mock-up abatement area where a visual inspection may be performed.

C. A written closed book examination will be administered covering the topics included in the asbestos project monitor refresher courses. The examination will consist of no fewer than 50 questions. The passing score will be 70% correct. Persons who pass the asbestos project monitor refresher training course examination will receive a Certificate of Completion as specified in § 14.4.

§ 16.20. RFS training course modules.

Each module shall consist of a minimum of four hours of actual instruction. This training does not replace the training requirements of OSHA in 29 CFR Part 1926.58.

A. Module I

Basic Training Information Required for all Supervisors and Workers.

1. Physical Characteristics

a. Identification of asbestos.

b. Aerodynamic characteristics.

c. Typical uses and physical appearance.

2. Health effects related to asbestos exposure

Final Regulations

- a. Nature of asbestos related disease.
- b. Routes of exposure, dose-response relationships and the lack of a safe exposure level.
- c. Cigarette smoking and asbestos exposure.
- d. Latency period for asbestos related diseases.
- e. Need and importance of following all safety instructions.

3. Laws and Regulations

- a. Licensing requirements.
- b. Relevant federal, state, and local regulatory requirements, procedures and standards, including, but not limited to:
 - (1) OSHA regulations
 - (2) EPA/NESHAP regulations
 - (3) Department of Transportation regulations, (49 CFR Part 172 Subpart H)

4. Personal protection equipment

- a. Classes and characteristics of respirator types, limitations, selection, inspection, donning, use, maintenance, and storage procedures.
- b. Fit testing procedures.
- c. Components of a respiratory protection program.
- d. Selection and use of personal protection clothing; use, storage, and handling of nondisposable clothing, hard hats, safety glasses, nonslip shoes.

5. Air Monitoring

- a. Procedures to determine airborne concentrations of asbestos fibers.
- b. Discussion of how personal air sampling is performed and the reasons for it.

6. Personal Hygiene

- a. Entry and exit procedures for the work area.
- b. Avoidance of eating, drinking, smoking and chewing (gum or tobacco) in the work area.
- c. Potential exposures, such as family exposure.

B. Floorcovering specialty module.

- 1. Floorcovering materials and adhesives which may

contain asbestos.

- a. Floorcovering materials.
- b. Adhesives - asbestos containing and non-asbestos containing.
- c. Dates of production of asbestos containing resilient floorcoverings.
- d. Alternatives to removal of existing floor and proper methods.

2. Recommended work practices.

- a. Work techniques for minimizing fiber releases; wetting, steaming, dry ice, hand tools, HEPA vacuumed tools, use of sealants, no grinding, no crushing, no breakage, use of mastic removers.

- b. Instruction as to proper nonfriable techniques for:

- (1) Removal of tile.
- (2) Removal of sheet goods.
- (3) Removal of residual adhesives.

- c. Clean up and disposal techniques, construction of leak tight containers, sealing of friable ACM edges or wetting of edges, HEPA vacuuming, wet wiping.

- d. Safety practices and hazard prevention during removal of floorcoverings.

Discussion of hazards posed by wet working conditions, electrical hazards, slips, trips and falls.

- e. Ventilation system lock-out, sealing of intake and exhaust vents, windows, doors, chimneys, and all openings.

- f. Positioning of warning signs, critical barriers and designation of regulated areas.

- g. Emergency procedures.

3. Course review.

4. Examination.

C. Roofing specialty module.

- 1. Identification of roofing materials which may contain asbestos.

Typical uses and physical appearance of asbestos roofing materials.

2. Recommended work practices

a. Work techniques for minimizing fiber releases, wet methods, use of HEPA vacuums, procedures for removal of asbestos cement products versus built up roof products. Discussion of prohibited work practices.

b. Work practices for nonfriable removal - wetting, hand tools, HEPA vacuumed tools, use of sealants.

c. Ventilation system lock-out, sealing of intake and exhaust vents, windows, doors, chimneys and all openings.

d. Clean up and disposal techniques, construction of leak tight chutes, sealing of friable ACM edges or wetting of edges.

e. Discussion of additional safety hazards:

(1) Scaffold and ladder hazards.

(2) Slips, trips and falls.

f. Positioning of warning signs, critical barriers and designation of regulated areas.

g. Emergency procedures.

3. Recommended safe work practices for installation of asbestos containing roofing materials.

4. Course review.

5. Examination.

D. Siding specialty module.

1. Identification and discussion of siding materials which may contain asbestos.

Typical uses and physical appearance of asbestos siding materials.

2. Recommended work practices.

a. Work techniques for minimizing fiber releases; wetting, procedures for removal of asbestos cement products. Discussion of prohibited work practices.

b. Work practices for nonfriable removal, wetting, hand tools, HEPA vacuumed tools, use of sealants.

c. Ventilation system lock-out, sealing of intake and exhaust vents, windows, doors, chimneys and all openings.

d. Positioning of warning signs and designation of regulated areas.

e. Clean up and disposal techniques, construction of leak tight containers, sealing of friable ACM edges

or wetting of edges.

f. Safety practices and hazard prevention during removal of siding.

(1) Scaffold and ladder hazards.

(2) Slips, trips, and falls.

3. Recommended safe work practices for installation of asbestos containing siding materials.

4. Course review.

5. Examination.

E. RFS Supervisor Module.

1. Pre-work activities and considerations.

a. Determination of asbestos containing materials.

(1) Methods of identification.

(2) Inspection report.

b. Air monitoring, specific methods and documentation procedures.

2. Assessment of the work area.

a. Check for difficulty of isolating the work area.

b. Necessary considerations if areas adjacent to the activity will be occupied.

c. Check for items requiring special protection.

3. Site consideration and preparations.

Regulated areas, barricade set-up, warning signs, etc.

4. Supervisory techniques, worker training, cleanliness of the job site.

5. Record keeping, disposal of asbestos containing waste, review of federal, state and local laws, regulations, and standards, including:

a. OSHA regulations.

b. NESHAP requirements.

c. Department of Transportation regulations (49 CFR Part 172, Subpart H)

6. Nonfriable removal techniques.

7. Course review.

8. Examination

Final Regulations

§ 16.21. Length of RFS training.

A. Each RFS worker training course shall consist of at least eight hours (the basic module and one specialty module) of instruction.

B. Each RFS supervisor training course shall consist of at least 12 hours (the basic module, one specialty module and the supervisor module) of instruction.

§ 16.22. Examination.

Upon completion of an approved RFS training course, a closed book examination will be administered. Each examination shall cover the topics included in the instructed modules. Persons who pass the examination and fulfill course requirements will receive a Certificate of Completion as specified in § 14.4. Examinations shall consist of 25 questions for each module of instruction.

§ 16.23. Refresher training course.

A. RFS worker and supervisor refresher training shall be at least one-half day (four hours). The course shall review federal and state regulations and discuss changes if applicable, and review developments in state-of-the-art procedures. A review of the following topics from the initial RFS worker training course shall be included in the RFS worker refresher training course:

1. Physical characteristics.
2. Health effects related to asbestos exposure.
3. Personal protection equipment.
4. State-of-the-art work practices.
5. Recommended work practices.
6. Recommended safe work practices for installation.

B. A review of the following topics from the initial RFS supervisor training module course shall be included in the RFS supervisor refresher training course:

1. Prework activities.
2. Site consideration and preparation.
3. Record keeping and disposal of asbestos-containing waste.

C. A written closed book examination will be administered covering the topics included in the asbestos RFS worker or supervisor refresher courses. The examination will consist of no fewer than 50 questions. The passing score will be 70% correct. Persons who pass the asbestos RFS worker or supervisor refresher training course examination will receive a Certificate of Completion as specified in § 14.4.

§ 16.24. RFS inspector training requirements.

[A.] Asbestos RFS inspectors shall complete a three-day (24 hours) training course as outlined below or an individual who has successfully completed the RFS Supervisor training course shall complete the one and one-half day (12 hours) of training found in Part II of the outline which follows. The course shall include lectures, demonstrations, four hours of hands-on training, course review and a written examination. The RFS inspector training course shall address the following topics:

PART I (minimum 12 hours)

1. Background information on asbestos:

- a. Identification of asbestos, and examples and discussion of the uses and locations of asbestos in buildings.
- b. Physical appearance of asbestos.

2. Potential health effects related to asbestos exposure:

- a. The nature of asbestos-related diseases.
- b. Routes of exposure, dose-response relationships and the lack of a safe exposure level.
- c. The synergism between cigarette smoking and asbestos exposure.
- d. Latency period for asbestos-related diseases, a discussion of the relationship of asbestos exposure to asbestosis, lung cancer, mesothelioma and cancer of other organs.

3. Understanding of building systems:

- a. The interrelationship between RFS projects and other building systems, ie., heating, ventilation and air conditioning systems.
- b. Where asbestos is found in RFS components, where to look for ACM.
- c. Identification of homogeneous areas.

4. Inspector respiratory protection and equipment:

- a. Classes and characteristics of respirator types.
- b. Limitations of respirators.
- c. Proper selection, inspection, donning, use, maintenance, and storage procedures for respirators.
- d. Methods of field testing of the facepiece-to-face seal (positive and negative pressure fitting tests); qualitative and quantitative fit testing procedures.

5. Regulations:

- a. Virginia regulations and statutes.
- b. Differences in federal/state requirements where applicable and effect on RFS projects.
- c. A review of the National Emission Standards for Hazardous Air Pollutants (NESHAP) (40 CFR Part 61, Subpart M).
- d. A review of the Regulated Asbestos Containing Material Guidance Document (EPA 340/1-90-018).

PART II (minimum 12 hours)

6. Functions, qualifications and role of RFS inspectors:

- a. Discussions of prior experience and qualifications.
- b. Discussions of the sanctions and purpose of licensure.
- c. Discussion of the inspection process to include inventory of ACM and physical assessment of RFS materials.

7. Legal liability and defenses

- a. Responsibilities of the RFS inspector, a discussion of comprehensive general liability policies, claims made and occurrence policies, environment and pollution liability policy clauses; state liability insurance requirements.
- b. Bonding and relationship of insurance availability to bond availability.

8. Preinspection planning:

- a. Employee, building occupants and building owner relations.
- b. Building record review, identity of probable homogeneous areas.
- c. Consultation with maintenance or building personnel.
- d. Review of previous inspection, sampling and abatement records of a building.

9. Inspection for nonfriable asbestos containing material and assessment of the condition of friable ACM:

- a. Procedures to follow in conducting visual inspections for nonfriable ACM.
- b. Types of building materials that may contain asbestos.

c. Touching materials to determine friability.

d. Open return air plenums and their importance in HVAC systems.

e. Assessing damage, significant damage, potential damage, and potential significant damage.

f. Amount of suspected ACM, both in total quantity and as a percentage of the total area.

g. Type of damage.

h. Accessibility.

i. Material's potential for disturbance.

j. Known or suspected causes of damage or significant damage, and deterioration as assessment factors.

10. Bulk sampling/documentation of ACM:

a. Techniques to ensure sampling in a randomly distributed manner.

b. Techniques for bulk sampling.

c. Sampling equipment the inspector should use.

d. Patching or repair of damage done in sampling; an inspector's repair kit.

e. Discussion of polarized light microscopy.

f. Choosing an accredited laboratory to analyze bulk samples.

g. Quality control and quality assurance procedures.

h. Variability between field and laboratory protection factors.

i. Factors that alter respirator fit (e.g., facial hair).

j. The components of a proper respiratory protection program.

k. Selection and use of personal protective clothing.

l. Use, storage, and handling of nondisposable clothing.

11. Record keeping and writing the inspection report:

a. Labeling of samples and keying sample identification to sampling location.

b. Recommendations on sample labeling.

c. Detailing of ACM inventory.

Final Regulations

d. Photographs of selected sampling areas and examples of ACM condition.

12. Regulations:

- a. USEPA Worker Protection Rule.
- b. OSHA Asbestos Construction Standard (29 CFR 1926.58.)
- c. OSHA Respirator Regulation (29 CFR 1910.134).
- d. Virginia asbestos regulations.

13. Field trip.

- a. Including a field exercise with a walk-through inspection.
- b. On-site discussion on information gathering and determination of sampling locations.
- c. On-site practice in physical assessment.
- d. Classroom discussion of field exercise.

14. Course review:

A review of key aspects of the training course.

15. Examination.

§ 16.25. Examination: Asbestos RFS inspectors.

Upon completion of an approved RFS Inspector training course, a closed book examination will be administered. The examination shall cover the topics included in the RFS inspectors training module. Persons who pass the examination and fulfill course requirements will receive a Certificate of Completion as specified in § 14.4.

1. 50 Multiple choice questions

2. Passing Score: 70% correct

§ 16.26. Refresher RFS inspector training course.

A. Refresher courses shall be one-half day (four hours) for RFS inspectors. The course shall review federal and state regulations, discuss changes to the regulations if applicable, discuss developments in state-of-the-art procedures. A review of the following topics shall be included in the RFS Inspector Refresher training course:

1. Potential health effects related to asbestos exposure.
2. Inspection for nonfriable asbestos-containing material (ACM) and assessment of the condition of friable ACM.
3. Bulk sampling/documentation of ACM.

4. Record keeping and writing the Inspection Report.

B. A written closed book examination will be administered covering the topics included in the asbestos RFS Inspector refresher training course. The examination will consist of no fewer than 50 questions. The passing score will be 70% correct. Persons who pass the refresher examination will receive a Certificate of Completion as specified in § 14.4.

PART XVII. FEE SCHEDULE.

CATEGORY	FEE AMOUNT
Asbestos Contractors License Application	\$ 300
Renewal	\$ 300
Late Renewal	\$ 600
RFS Contractors License Application	\$ 300
Renewal	\$ 300
Late Renewal	\$ 600
Asbestos Workers License Application	\$ 35
Renewal	\$ 35
Late Renewal	\$ 70
Asbestos Supervisor License Application	\$ 35
Renewal	\$ 35
Late Renewal	\$ 70
Asbestos Inspectors License Application	\$ 35
Renewal	\$ 35
Late Renewal	\$ 70
Asbestos Management Planner License Application	\$ 35
Renewal	\$ 35
Late Renewal	\$ 70
Asbestos Project Designer License Application	\$ 35
Renewal	\$ 35
Late Renewal	\$ 70
Asbestos Project Monitor License Application	\$ 35
Renewal	\$ 35
Late Renewal	\$ 70
Asbestos Analytical Laboratory License Application	\$ 75
Renewal	\$ 75
Late Renewal	\$ 150

EVALUATION OF TRAINING COURSES

Asbestos Worker Training Courses ([24 32] hours)	\$1200
Refresher Course (8 hours)	\$ 400
Asbestos Supervisor Training Course ([32 40] hours)	\$1600
Refresher Course (8 hours)	\$ 400
Asbestos Inspector Training Course (24 hours)	\$1200
Refresher Course (4 hours)	\$ 200
Asbestos Management Planner Training Course (16 hours)	\$ 800
Refresher Course (4 hours)	\$ 200
Asbestos Project Designer Training Course (24 hours)	\$1200
Refresher Course	\$ 400
Asbestos Project Monitor Training Course	

Final Regulations

(40 hour comp.)	\$2000
Asbestos Project Monitor Training Course	
(16 hours)	\$ 800
Refresher Course	\$ 400
RFS Worker Basic Module	\$ 200
RFS Speciality Module	\$ 200
RFS Supervisor	\$ 200
RFS Worker Refresher	\$ 200
RFS Inspector Refresher	\$ 200
RFS Inspectors Training Course (24 hour	
comprehensive)	\$1200
RFS Inspectors Training Course (12 hours)	\$ 600
Dishonored check service fee	\$ 25

VA.R. Doc. No. R94-1078; Filed June 22, 1994, 11:41 a.m.

...

DO NOT USE THIS APPLICATION TO RENEW A LICENSE

- PLEASE REMEMBER: All applications should be completed according to these instructions. Incomplete applications will be returned to the applicant. FEES RECEIVED WILL NOT BE REFUNDED

0 1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30 31 32 33 34 35 36 37 38 39 40 41 42 43 44 45 46 47 48 49 50 51 52 53 54 55 56 57 58 59 60 61 62 63 64 65 66 67 68 69 70 71 72 73 74 75 76 77 78 79 80 81 82 83 84 85 86 87 88 89 90 91 92 93 94 95 96 97 98 99

COMMONWEALTH OF VIRGINIA
DEPARTMENT OF PROFESSIONAL AND OCCUPATIONAL REGULATION
3600 WEST BROAD STREET
RICHMOND, VIRGINIA 23230

APPLICATION FOR ASBESTOS CONTRACTOR LICENSE

PLEASE PRINT

1.

Name _____

Mailing or

Business _____

Address _____

Phone No. () _____

City _____ State _____ Zip Code _____

2. Virginia Contractor's License Number: _____ Tax Identification Number: _____

Type of Business: (check one)

Individual _____ Limited partnership _____ Corporation _____ Co-partnership _____ Other _____

3. LICENSE FEE \$300.00 Indicate type of license requested below:

Asbestos Contractor _____ Asbestos RFS Contractor _____

ALL CHECKS OR MONEY ORDERS SHALL BE MADE PAYABLE TO THE TREASURER OF VIRGINIA.

4. License or authorization to perform Asbestos Work currently or previously held:

Type _____ License No. _____ Issued by _____

5. (A) Has the applicant, within the past 36 months, had its license or authorization to perform abatement work suspended or revoked by any other state or jurisdiction?

_____ YES _____ NO

(B) Are there any disciplinary actions by any jurisdiction pending against the applicant?

_____ YES _____ NO

In the event on disciplinary action has been taken against the applicant, the following information will be required as the Board may deny an applicant's request for a license based on prior disciplinary actions which may indicate that the abatement work might not be performed in a manner that would protect the public health, safety and welfare.

1. A complete list of all prior disciplinary actions, including any sanctions imposed on the applicant by any jurisdiction or any state or federal court.
2. A description of any asbestos abatement activities conducted by the applicant that were terminated prior to completion including the circumstances of termination.
3. A copy of any reports compiled by an disciplinary agency.

The reverse side of this application must be completed before license will be issued.

CHAPTER 5 Section 54.1-505 OF THE CODE OF VIRGINIA STATES AN ASBESTOS CONTRACTOR OR RFS CONTRACTOR SHALL;

Demonstrate to the satisfaction of the Board that the applicant and his employees or agents are familiar with and are capable of complying fully with all applicable requirements, procedures and standards of the United States Environmental Protection Agency, the United States Occupational Safety and Health Administration, the Department of Labor and Industry, and the State Air Pollution Control Board covering any part of an asbestos project.

BY MY SIGNATURE BELOW, I UNDERSTAND AND AGREE TO MY DUTIES AND OBLIGATIONS AND I AM FAMILIAR WITH THE STATUTES AND REGULATIONS OF THE COMMONWEALTH OF VIRGINIA APPLICABLE TO ASBESTOS CONTRACTORS OR RFS CONTRACTORS.

6. THIS PORTION MUST BE COMPLETED BY APPLICANT.

I hereby certify that the above information is correct to the best of my knowledge and belief and that no information has been suppressed that might affect this application.

Typewritten or

Printed Name _____

Signature _____

Title _____

Date _____

Applicant's Tradename _____

Commonwealth of Virginia
Department of Professional and Occupational Regulation
3600 West Broad Street
Richmond, Virginia 23230

GENERAL INSTRUCTIONS

1. PLEASE READ THE INSTRUCTIONS, STATUTE, REGULATIONS AND APPLICATION CAREFULLY BEFORE COMPLETING THE APPLICATION FORM.
2. Applications may be filed at any time.
3. PRINT IN INK OR TYPE.
4. All application and renewal fees are non-refundable.
5. Acceptance by the Department of Professional and Occupational Regulation of an application fee does not indicate approval of an application nor connote eligibility for licensure.
6. All applicable items must be properly completed and/or attached or the application will be returned and processing will be delayed.
7. Please keep instructions for future reference, along with a copy of your application and related papers.
8. Include a check or money order payable to "Treasurer of Virginia" in the amount of \$300.00.
9. MAIL THE COMPLETED APPLICATION FORM, FEE AND ALL ATTACHMENTS TO:

Commonwealth of Virginia
Department of Professional and Occupational Regulation
P.O. Box 11066
Richmond, Virginia 23230

FORM INSTRUCTIONS

1. Complete both sides of the application form.
2. Provide your current address; a street address must be provided unless you have a rural route and box number. All correspondence and your renewal application will be mailed to the address listed on the address line.
3. Provide your Virginia Contractor's license number.
4. If your license or other authorization to perform asbestos abatement work has been suspended or revoked by any jurisdiction and if any disciplinary action by any jurisdiction is pending, provide the information requested in 1, 2, and 3.
5. Please read the back page of the application carefully and complete the affidavit.

PLEASE REMEMBER: ALL APPLICATIONS SHOULD BE COMPLETED ACCORDING TO THESE INSTRUCTIONS. INCOMPLETE APPLICATIONS WILL BE RETURNED TO THE APPLICANT; HOWEVER, FEES RECEIVED WILL NOT BE REFUNDED.

Commonwealth of Virginia
Department of Professional and Occupational Regulation
3600 West Broad Street
Richmond, Virginia 23230

Application for Asbestos Analytical Laboratory License

Please Print or Type

1. Name: _____
Addresses of all laboratory site locations: _____

Phone number(s) of all laboratory facilities: _____

Mailing address if different from above: _____

City _____ State _____ Zip Code _____
2. Contact person
Name _____
Phone number _____
3. Type of analysis and accreditations provided with application
Please check the appropriate box(es)
PLM _____ PCM _____ NIOSH PAT _____
NVLAP(Bulk Asbestos Fiber Analysis) _____ NIOSH PAT _____
NHLA _____
TEM _____
NVLAP(Airborne Asbestos Fiber Analysis) _____
NVLAP(Airborne Asbestos Fiber Analysis) _____

Please enclose proof of current accreditation(s) with this application
Please enclose NIOSH 582 or equivalent training for microscopists

Commonwealth of Virginia
Department of Professional and Occupational Regulation
3600 West Broad Street
Richmond, Virginia 23230

GENERAL INSTRUCTIONS

1. PLEASE READ THE INSTRUCTIONS, STATUTE, REGULATIONS AND APPLICATION CAREFULLY BEFORE COMPLETING THE APPLICATION FORM.
2. Applications may be filed at any time.
3. PRINT IN INK OR TYPE.
4. All application and renewal fees are non-refundable.
5. Acceptance by the Department of Professional and Occupational Regulation of an application fee does not indicate approval of an application nor connote eligibility for licensure.
6. All applicable items must be properly completed and/or attached or the application will be returned and processing will be delayed.
7. Please keep instructions for future reference, along with a copy of your application and related papers.
8. Include a check or money order payable to "Treasurer of Virginia" in the amount of \$75.00.
9. MAIL THE COMPLETED APPLICATION FORM, FEE AND ALL ATTACHMENTS TO:

Commonwealth of Virginia
Department of Professional and Occupational Regulation
P.O. Box 11066
Richmond, Virginia 23230

FORM INSTRUCTIONS

1. Complete both sides of the application form.
2. Provide your current address; a street address must be provided unless you have a rural route and box number. All correspondence and your renewal application will be mailed to the address listed on the address line.
3. If your license or other authorization to perform asbestos analytical services has been suspended or revoked by any jurisdiction or if any disciplinary actions by any jurisdiction is pending, provide the information requested in 1 and 2.
4. Please read the back page of the application carefully and complete the affidavit.

PLEASE REMEMBER: ALL APPLICATIONS SHOULD BE COMPLETED ACCORDING TO THESE INSTRUCTIONS. INCOMPLETE APPLICATIONS WILL BE RETURNED TO THE APPLICANT; HOWEVER, FEES RECEIVED WILL NOT BE REFUNDED.

4. For each on-site analysts enclose a copy of their NIOSH 582 training certificate.

5. (A). Has the applicant(s), within the past 36 months, had their license or authorization to perform asbestos analytical laboratory services suspended or revoked by any federal, state or private accreditation program.

_____ YES _____ NO

- (B). Are there any disciplinary actions by any jurisdiction pending against the applicant(s).

_____ YES _____ NO

In the event disciplinary actions have been taken against the applicant, the Board may deny an applicant's request for a license based on prior disciplinary actions which may indicate that the asbestos analytical laboratory might not perform its services in a manner that would protect the safety of its employees, or that the analytical testing results might lack credibility and/or reliability.

In order to make a determination, the following information will be required:

1. A complete list of all prior disciplinary actions, including any sanctions imposed on the applicant by any jurisdiction or any state or federal court.
2. A copy of any reports of disciplinary actions compiled by an enforcement agency or jurisdiction against the applicant.

6. License fee of \$ 75.00. ALL CHECKS OR MONEY ORDERS SHALL BE MADE PAYABLE TO THE "TREASURER OF VIRGINIA."

BY MY SIGNATURE BELOW, I UNDERSTAND AND AGREE TO MY DUTIES AND OBLIGATIONS AND I AM FAMILIAR WITH THE STATUTES AND REGULATIONS OF THE COMMONWEALTH OF VIRGINIA APPLICABLE TO ASBESTOS ANALYTICAL LABORATORIES.

CERTIFICATE

7. THIS PORTION MUST BE COMPLETED BY AN OFFICER OF THE LABORATORY OR A RESPONSIBLE PARTY.

I hereby certify that the above information is correct to best of my knowledge and belief and that no information has been suppressed that might affect this application.

Typewritten or
printed name _____

Signature _____

Title _____

Date _____

Final Regulations

COMMONWEALTH OF VIRGINIA
DEPARTMENT OF PROFESSIONAL AND
OCCUPATIONAL REGULATION
3600 WEST BROAD ST.
RICHMOND, VA 23230

APPLICATION FOR TRAINING COURSE APPROVAL

1. Name _____
Address _____
Phone number _____
2. Primary Instructor _____
3. Course Discipline _____
Initial _____ Refresher _____
4. Date of course _____
(Preferred Audit Date)
5. Location of course _____
6. The following is a list of materials required to be submitted for preliminary approval. Please submit the material at least 45 days prior to the audit date. Check all items enclosed.
 1. Course Curriculum
 2. A narrative explanation that clearly indicates how the course meets the requirements for approval in the following areas:
 - a. Length of training in hours.
 - b. Amount and type of hands on training. (Initial only)
 - c. Examinations (length, format, passing score).
 - d. Subjects covered in the course.
 - e. Assessments to test security and how exams are administered.
 3. A copy of all course materials (student manuals, instructor notebooks, handouts, etc.).
 4. A detailed statement about the development of the examination used in the course.
 5. Names, qualifications (include resume and/or experience) and subject area that each instructor will teach.
 6. Teacher-student ratio.

7. Description and an example of numbered certificates that will be issued to students who successfully complete the course.

8. Fee. (See Section XVII of the Virginia Asbestos Licensing Regulations)

It is imperative that all items (1-8) and the required fee be included with your request to ensure prompt review. The Department of Professional and Occupational Regulation will notify you in writing of the preliminary findings and approval status of your course. If the training course is found to meet established standards after the preliminary evaluation, an audit will be scheduled. In order for this audit to be conducted, your training course must be held in Virginia or the metropolitan Washington, D.C. area. A decision regarding final approval of the training course will be based on the evaluation report received following the audit.

The U.S. Environmental Protection has granted full approval of the Virginia asbestos accreditation program. The approval includes all disciplines, except Project Monitor which is not recognized by EPA. All training courses approved under the Virginia regulations, with the exception of Project Monitor, will also be EPA approved. The Department of Professional and Occupational Regulation also approves RFS contractors, RFS worker & RFS Inspector initial training and refresher courses.

The applicant's signature below indicates that all material and information submitted is true and accurate.

Applicant's signature _____

Date _____

FORM A CONTINUED. APPLICANT'S NAME _____
 EXPERIENCE: Please complete in accordance with the Virginia Asbestos Licensing Regulations. _____
 BUSINESS NAME _____
 ADDRESS _____
 PHONE _____
 JOB TITLE _____
 SPECIFIC JOB DUTIES AND RESPONSIBILITIES _____
 DATES OF THIS EXPERIENCE _____
 SIGNATURE OF VERIFICATION BY SUPERVISOR _____
 TYPED/PRINTED NAME OF SUPERVISOR _____
 BUSINESS NAME _____
 ADDRESS _____
 PHONE _____
 JOB TITLE _____
 SPECIFIC JOB DUTIES AND RESPONSIBILITIES _____
 DATES OF EXPERIENCE _____
 SIGNATURE OF VERIFICATION BY SUPERVISOR _____
 TYPED/PRINTED NAME OF SUPERVISOR _____

NOTE: IF MORE SPACE FOR EXPERIENCE IS NEEDED, PLEASE DUPLICATE THIS FORM

Virginia Department of Professional and Occupational Regulation
 Asbestos Licensing Application
 FORM A
 Required with each asbestos inspector, management planner, project monitor and project designer application.
 NAME _____ SSN# _____
 EMPLOYER: _____
 BUSINESS ADDRESS STREET _____
 CITY _____ STATE: _____ ZIP: _____ PHONE _____
 HOME ADDRESS: STREET: _____
 CITY: _____ STATE: _____ ZIP: _____

- Do you have a high school degree or equivalent? Yes ☐ No ☐
- INSTRUCTIONS
1. The applicant shall be responsible for reading the current Virginia Asbestos Licensing Regulations before completing this application.
 2. Forms must be legible. The applicant shall assume full responsibility for filing all required documentation, references, and verifications.
 3. EDUCATION: If a degree verification is required, the degree verification must be attached to this application. The applicant should enclose a stamped, addressed envelope for return directly to:
 Virginia Asbestos Licensing Program
 3600 W. Broad St.
 Richmond, VA 23230-4917.
 4. TRAINING: Attach a copy of the training certificate obtained upon successful completion of your initial EPA/AHERA or Virginia approved training course and all subsequent EPA/AHERA or Virginia approved refresher courses. If you are applying for a license, attach a copy of the Virginia Asbestos Licensing Regulations.
 5. EXPERIENCE: In the section of this form, designated EXPERIENCE, please provide evidence of your experience as required by the Virginia Asbestos Licensing Regulations. Use this form. Resumes are not accepted. Periods of self-employment may be verified by association or clients. List your experience in chronological order with the most recent employment first. The verifying signatures must be original, not carbon or facsimile.

APPLICATIONS MUST COMPLY WITH THESE INSTRUCTIONS AND THE VIRGINIA ASBESTOS LICENSING REGULATIONS. INCOMPLETE AND NON-COMPLYING APPLICATIONS WILL BE RETURNED.

FORM A
VIRGINIA ASBESTOS LICENSING PROGRAM
LICENSE APPLICATION FOR ASBESTOS INSPECTOR
AND/OR MANAGEMENT PLANNER/OR PROJECT MONITOR
VERIFICATION OF DEGREE GRANTED

(Applicant shall complete the upper portion of this form)

Name _____

Residence Address _____

Business Address _____

Birth Date _____ Social Security Number _____

College or University Attended _____

Applicant's Signature _____

(After completion of the information above, applicant shall send this form to the college from which he/she obtained a degree. Please request that the following certificate be completed and this form be returned directly to the Virginia Asbestos Licensing Program)

C E R T I F I C A T E

I hereby certify that the above named applicant has been graduated from this institution with a degree of: _____

on _____ Major _____

Signature _____

Official Position _____

Institution _____

Date _____

APPLICANT: Enclose a stamped, addressed envelope for return directly to:
 Virginia Asbestos Licensing Program
 Department of Professional and Occupational Regulation
 3600 West Broad Street
 Richmond, Virginia 23210-4317

INSPECTOR/PROJECT DESIGNER/CONTRACTOR DISCLOSURE FORM

I understand the Virginia Licensed Asbestos Contractor or RES Contractor has an employee/employer relationship with or financial interest in the Virginia Licensed Asbestos Inspector, RES Inspector or Virginia Licensed Project Designer/Contractor working on this asbestos project. I understand that according to Virginia Asbestos Licensing Regulations, this form must be signed and dated by the building owner or his agent and the asbestos contractor prior to the contractor prior to bid and contract submission. I understand as the building owner, I must provide this form to all parties involved on the project should the building owner award the contract to this contractor. The complete form must be available upon demand at the asbestos project site.

Building owner or agent: _____ Date _____

I understand that any falsification of information made in conjunction with this disclosure form, regardless of time of discovery, may result in enforcement action by the Department under Section 4.3 of the Virginia Asbestos Licensing Regulations.

Contractor: _____ Date _____

DEPARTMENT OF HEALTH (STATE BOARD OF)

EDITOR'S NOTICE: The following publication of VR 355-40-400 will finalize the proposal published 10:11 VA.R. 2830-2837 February 21, 1994. However, the bracketed changes in § 3.1 no longer requiring that an applicant be domiciled in Southwest Virginia in order to be considered for a scholarship at East Tennessee State University, but giving preference to residents of Southwest Virginia over other applicants are exempt from Article 2 of the Administrative Process Act in accordance with § 9-6.14:4.1 C 4 (a) of the Code of Virginia. Section 9-6.14:4.1 C 4 (a) exempts regulations that are necessary to conform to changes in Virginia statutory law or the appropriation act where no agency discretion is involved. The State Board of Health will receive, consider and respond to petitions by any interested person at any time with respect to reconsideration or revision.

Title of Regulation: VR 355-40-400. Regulations Governing the Virginia Medical Scholarship Program.

Statutory Authority: §§ 32.1-12, 32.1-122.5, 32.1-122.5:1, 32.1-122.6, and 32.1-122.6:01 of the Code of Virginia.

Effective Date: August 10, 1994.

Summary:

The Virginia General Assembly enacted legislation in 1992 providing eligibility to receive Virginia medical scholarships to residents of Southwest Virginia who are students at the James H. Quillen College of Medicine of East Tennessee State University and commit to practice primary care medicine in underserved communities in Southwest Virginia in return for these scholarships. In 1994, legislation was passed which no longer requires that an applicant be domiciled in Southwest Virginia in order to be considered for a scholarship at East Tennessee State University. However, residents of Southwest Virginia will be given preference for the scholarship award. The amended regulations reflect these changes and also help clarify the intent of the program. In addition, they more clearly reflect the intent of the General Assembly with regard to the dollar amount, numbers of scholarships to be awarded in any given year, and increasing access to primary care for the indigent. They also clarify the authority of the Commissioner of Health in overseeing fulfillment of contracts at assigned locations.

Summary of Public Comment and Agency Response: No public comment was received by the promulgating agency.

Agency Contact: Copies of the regulation may be obtained from Susan R. Rowland, Regulatory Coordinator, Department of Health, 1500 E. Main Street, Main Street Station, Room No. 214, Richmond, VA 23219, telephone (804) 786-3564. There may be a charge for copies.

VR 355-40-400. Regulations Governing the Virginia Medical Scholarship Program.

PART I. GENERAL INFORMATION.

§ 1.1. Authority

Title 32.1, Chapter 6, § 32.1-122.6 B of the Code of Virginia requires the State Board of Health, after consultation with the Medical College of Virginia, the University of Virginia School of Medicine, and the Medical College of Hampton Roads, to promulgate regulations to administer the Virginia Medical Scholarship Program.

§ 1.2. 1.1. Purpose.

These regulations set forth the criteria for eligibility, circumstances under which awards will be made, and the process for awarding Virginia medical scholarships to medical students; the general terms and conditions applicable to the obligation of each recipient of a medical scholarship to practice medicine in a medically underserved area of Virginia, as identified by the Board of Health by regulation, or to practice medicine in a designated state facility as defined in these regulations; and penalties for a recipient's failure to fulfill the practice requirements of the Virginia Medical Scholarship Program. These regulations and the Regulations for Determining Virginia Medically Underserved Areas supersede and replace Definitions of "Practice of Family Medicine" and "Areas of Need" under State Medical Scholarship Program which were adopted by the Board of Health and became effective December 1, 1979.

§ 1.3. 1.2. Administration.

The State Health Commissioner, as executive officer of the Board of Health, shall administer this program. Any requests for variance from these regulations shall be considered on an individual basis by the board in regular session.

§ 1.4. 1.3. Applicability.

These regulations shall apply to all recipients who begin fulfillment of their scholarship obligation on July 1, 1990, or later; provided that approval given by the commissioner prior to the effective date of these regulations shall remain in full force and effect.

§ 1.5. Effective date.

These regulations shall be effective on June 1, 1991.

PART II. DEFINITIONS.

§ 2.1. Definitions.

Unless the context clearly indicates a contrary

Final Regulations

interpretation, the words and terms used in these regulations shall have the following meanings:

"Accredited internship" means a graduate medical education program of one year duration accredited by the Liaison Committee on Graduate Medical Education.

"Accredited residency" means a graduate medical education program in family practice medicine, general internal medicine, pediatric medicine or obstetrics and gynecology accredited by the Liaison Committee on Graduate Medical Education.

"Approved by the medical school from which the graduate matriculated that nominated him for the scholarship" means that medical school affirms that the graduate has accepted placement in an accredited residency or internship at a hospital or institution located in Virginia, or affirms that such placement has been accepted in a program not located in Virginia due to such placement through the match.

"Board" or **"Board of Health"** means the State Board of Health.

"Commissioner" means the State Health Commissioner.

"Designated state facility" means a facility operated by the Virginia Departments of Corrections, Youth and Family Services, or Mental Health, Mental Retardation and Substance Abuse Services.

"First year resident" means a graduate of a participating medical school who has been accepted by an accredited primary care residency program approved by the medical school that nominated him for the scholarship.

"Interest at the prevailing bank rate for unsecured debt" means the prime lending rate as published in the Wall Street Journal on the last day of the month in which the decision to repay is communicated to the commissioner by the recipient, plus two percentage points.

"The match" means the National Resident Matching Program, a nationwide system by which medical school graduates are placed in graduate medical education programs by mutual agreement.

"Medically underserved area" means a geographic area in Virginia designated by the State Board of Health in accordance with the rules and regulations for the identification of medically underserved areas.

"Participating medical school" means the Eastern Virginia [Medical] School of the Medical College of Hampton Roads, or the Medical College of Virginia of the Virginia Commonwealth University, or the School of Medicine of the University of Virginia, or the [James H.] Quillen [School College] of Medicine of East Tennessee State University.

"Penalty" means an amount of money equal to two times the amount of all monetary scholarship awards paid to the scholarship recipient.

"Practice" means the practice of medicine by a recipient in one of the designated primary care specialties in an a specific geographic area determined to be fulfillment of the recipient's scholarship obligation.

"Primary care" means the specialties of family practice medicine, general internal medicine, pediatric medicine, or obstetrics and gynecology.

"Recipient" or **"scholarship recipient"** means an eligible medical student or graduate medical student who enters into a contract with the commissioner and receives one or more scholarship awards via the Virginia Medical Scholarship Program.

"Restitution" means the amount of monetary reimbursement, including repayment of all pertinent scholarship awards plus penalty and applicable interest as set forth in these regulations, that will be owed to the Commonwealth of Virginia by a scholarship recipient who is in default of his contractual obligation as provided for in these regulations.

"Southwest Virginia" means those cities and counties in Virginia that are located in Planning Districts 1, 2, and 3; they include Bland County, City of Bristol, Buchanan County, Carroll County, Dickenson County, City of Galax, Grayson County, Lee County, City of Norton, Russell County, Scott County, Smyth County, Tazewell County, Washington County, Wise County, and Wythe County.

"Virginia medical scholarship" means an award of \$10,000 an amount specified by the General Assembly in the Appropriations Act made to a student enrolled in a Virginia participating medical school or to a graduate student of a Virginia participating medical school pursuing the first year of graduate training at a hospital or institution approved by the Virginia participating medical school that the graduate attended as a medical student nominated him for the scholarship and for which the medical student or graduate medical student entered a contractual obligation to repay.

"Virginia medical school" means the Eastern Virginia Medical School of the Medical College of Hampton Roads, or the Medical College of Virginia of the Virginia Commonwealth University, or the School of Medicine of the University of Virginia.

PART III. SCHOLARSHIP AWARDS.

§ 3.1. Eligible applicants.

Any currently enrolled student in full-time attendance at a Virginia participating medical school or a graduate of such school who has accepted placement in, but not

entered the first year of an accredited internship or accredited residency approved by the medical school ~~from which the graduate matriculated that nominated him for the scholarship~~, shall be eligible for the Virginia medical scholarship. Preference for the scholarship award shall be given to: residents of the Commonwealth [~~over nonresidents~~]; residents from medically underserved areas of Virginia as determined by the Board of Health in accordance with the provisions of its regulations for that purpose; [,] students whose period of residence in one or more medically underserved areas is deemed by the participating medical school to indicate a high likelihood that the student would fulfill his contractual obligation to practice in a medically underserved area [; ,] and students [~~or first year graduates~~] from racial minorities [~~protected minority groups economically disadvantaged backgrounds over nonresidents~~]. Additionally, preference shall be given to first-year graduates serving in accepted by approved internships or primary care residencies in Virginia over first-year graduates in approved out-of-state internships or residencies. Virginia medical scholarships are available for medical students [~~domieilled in Southwest Virginia~~] who are enrolled at the [James H.] Quillen [~~School~~ College] of Medicine of East Tennessee State University when such individuals are determined to be committed to practicing in a medically underserved area in Southwest Virginia. [Preference for the scholarship award shall be given to residents of Southwest Virginia.]

§ 3.2. Scholarship amount award .

A Virginia medical scholarship award shall be \$10,000 for each academic year and shall be awarded to the recipient upon or following the recipient's execution of a contract with the commissioner for scholarship repayment.

§ 3.3. Distribution of scholarships.

Annually, by May 1 of each calendar year, the commissioner shall inform the deans of the Virginia participating medical schools of the number as provided by the General Assembly by appropriation of medical school scholarships that are available for the schools' medical students during the next academic year. The annual number of medical scholarships available for award at each Virginia participating medical school shall be uniformly distributed among the schools, and shall be equal, and shall be based upon funds appropriated by the Virginia General Assembly , except that the number of Virginia medical scholarships available for medical students from Southwest Virginia attending the [James H.] Quillen [~~School~~ College] of Medicine of East Tennessee State University shall be limited to the number established by the Virginia General Assembly by appropriation . The deans of the respective Virginia participating medical schools shall annually nominate qualified students or first-year residents, in accordance with the criteria for preference enumerated in § 3.1 of these regulations, to receive scholarships. The number of nominees submitted to the commissioner at this time will

not exceed the number of scholarships that are available for each medical school. The State Health Commissioner shall award scholarships to the nominees of the deans at the Virginia participating medical schools in accordance with the number of scholarships available for each medical school. Any scholarships that have not been awarded following the initial annual distribution among the medical schools shall be available for redistribution to qualified students in any of the medical schools at the discretion of an awards committee consisting of the commissioner, who shall serve as chairman and ex officio member without vote, and the deans of the medical schools or their designees. The awards committee shall convene for this purpose only when the scholarships available to one or more of the medical school exceed the number of qualified nominees by the dean(s). A scholarship Scholarships shall be awarded to qualified students based upon majority vote of the awards committee. Individual scholarship recipients may be nominated for and receive a maximum of five scholarships.

PART IV. CONTRACTS.

§ 4.1. Contract provisions Contractual practice obligation .

Prior to the award of a scholarship payment of money to a scholarship awardee , the commissioner shall enter into a contract with the recipient. The contract shall:

1. Provide that the recipient will pursue the medical course of the school nominating the recipient for the award until the recipient's graduation or will pursue the recipient's first year of primary care graduate training in an accredited internship or residency program approved by the school nominating the recipient for the award and, upon completing a term not to exceed three* years as an intern or a resident in an approved program, will promptly begin and thereafter continuously engage in full-time primary care practice in a medically underserved area of Virginia, or in a designated state facility, for a period of years equal to the number of annual scholarships received. At any time prior to entering practice, the scholarship recipient shall be allowed to select a future practice location from the listing of medically underserved areas maintained by the board, and the recipient shall be allowed to fulfill the scholarship repayment obligation in the preselected medically underserved area. However, after making an initial selection of a medically underserved area in which to practice, the recipient may not alter the decision until the recipient is fully prepared to enter practice, at which time the recipient must choose from the current list of medically underserved areas maintained by the board or the preselected medically underserved area.

2. Provide that the recipient repaying the scholarship obligation by practicing primary care medicine in a

Final Regulations

medically underserved area will provide services to persons who are unable to pay for the service and will participate in all government sponsored insurance programs designed to assure access of covered persons to medical care services shall notify the commissioner in writing of his proposed practice location not more than 30 days after completing his approved residency program. After receiving written approval of his practice location from the commissioner, the recipient shall begin his approved practice not more than 90 days after completing his primary care residency program.

3. Provide that the recipient may request approval of a change of practice location. The commissioner in his discretion may approve such a request, but only if the change is to a practice location in a medically underserved area or a state facility designated by the Board of Health.

4. Provide that the recipient shall repay the scholarship obligation by practicing primary care medicine on a full-time basis in a medically underserved area, will maintain office hours convenient for the population of the area to have access to the recipient's services and will participate in all government sponsored insurance programs designed to assure access of covered persons to medical care services such as Medicare and Medicaid, and will not selectively place limits on the numbers of such patients admitted to the practice, and will charge the usual and customary fees prevailing in the area in which service is provided, except that if the patient is unable to pay the charge, such a patient will be charged a reduced rate or will not be charged at all. This stipulation may be waived at the commissioner's discretion in cases where it places undue financial burden on the part of the primary care medical practice.

5. Provide that the recipient repaying the scholarship obligation by practicing primary care medicine on a full-time basis in a medically underserved area will maintain office hours convenient for the population of the area to have access to the recipient's services.

4. Provide that the recipient will not voluntarily obligate himself for more than the minimum period of military service required of physicians by the laws of the United States;

5. 6. Provide that the recipient shall not voluntarily obligate himself for more than the minimum period of military service required of physicians by the laws of the United States and that upon completion of the minimum period of military service, the recipient will promptly begin and thereafter continuously engage in full-time primary care practice in a medically underserved area of Virginia, or in a designated state facility, for the period of years equal to the number

of scholarships received.

7. Provide that the recipient shall receive credit toward fulfillment of his contractual obligation at the rate of 12 months of medical practice for each scholarship award paid to the recipient. The recipient may be absent from the place of approved practice for a total of seven weeks in each 12-month period for personal reasons. Absence for a period in excess of seven weeks without the written permission of the commissioner shall result in proportional reduction of the period of credit toward fulfillment of the contractual obligation.

§ 4.2. Default.

With respect to default, the contract shall:

1. Provide that a recipient who fails to fulfill his obligation to practice primary care medicine as provided for in these regulations shall be deemed to be in default and shall forfeit all monetary scholarship payments made to him, and shall make restitution of those funds to the Commonwealth of Virginia as provided for in subdivisions 2 through 6 of this section.

6. 2. Provide for termination of the contract by the recipient while the recipient is enrolled in medical school, upon the recipient's notice and immediate repayment to the Commonwealth of the total amount of the scholarship funds received plus interest at the prevailing bank rate for similar amounts of unsecured debt, computed from the date of receipt of funds by the recipient that if the recipient defaults while still in medical school or residency, by voluntarily notifying the commissioner in writing that he will not practice primary care in a Virginia medically underserved area as required by his contract, by voluntarily not proceeding to the next year of medical education or residency, or by withdrawing from medical school or residency, he shall make restitution to the Commonwealth of Virginia by repayment of all monetary scholarship awards plus interest on the amount of the restitution.

7. 3. Provide that if the recipient fails who defaults by failing to maintain satisfactory academic progress, the recipient may, upon certification of the commissioner, be relieved of the contract obligation to engage in full-time primary care practice in a medically underserved area, or in a designated state facility, upon repayment or by reason of his dismissal from medical school for any reason, shall make restitution to the Commonwealth of Virginia by repayment of all monetary scholarship awards plus interest on the amount of such restitution to the Commonwealth of the total amount of scholarship funds received plus interest at the prevailing bank rate for similar amounts of unsecured debt, computed from the date of receipt of funds by the recipient.

8. 4. Provide that if the recipient becomes permanently disabled *is in default due to death or permanent disability* so as not to be able to engage in primary care practice, the recipient may, upon certification of the commissioner, be relieved of the obligation under the contract to engage in full-time primary care practice in an underserved area, or in a designated state facility, upon repayment or his personal representative shall make restitution to the Commonwealth [of the total amount of scholarship funds received plus interest on such amount computed at 8.0% per annum] from the date of receipt of scholarship funds [*by repayment of all monetary scholarship awards plus interest on the amount of restitution*] . For recipients completing part of the practice obligation prior to becoming permanently disabled, the total amount of scholarship funds received, and owed, shall be reduced by the amount of the annual scholarship award multiplied by the number of years practiced. Unusual hardship may be reviewed for variance by the board on a case-by-case basis . *Partial fulfillment of the recipient's contractual obligation by the practice of medicine as provided for in this contract prior to death or permanent disability shall reduce the amount of restitution plus interest due by a proportionate amount of money, such proportion being determined as the ratio of the number of whole months that a recipient has practiced primary care medicine in an approved location to the total number of months of the contractual obligation the recipient has incurred.*

5. Provide that individual cases of extraordinary hardship may be considered by the commissioner for forgiveness or partial forgiveness of payment or service.

9. Provide that if the recipient expires prior to entering primary care practice or subsequent to entering practice in a designated medically underserved area or state facility, the scholarship indebtedness shall be forgiven.

10. 6. Provide that any recipient of a scholarship, who fails or refuses *defaults by evasion or refusal* to fulfill the obligation to practice primary care medicine in a medically underserved area or designated state facility for a period of years equal to the number of annual scholarships received *at any time following completion of medical school and residency training* , shall reimburse the Commonwealth three times the total amount of the scholarship funds received plus interest on the tripled obligation amount at the prevailing bank rate of interest for similar amounts of unsecured debt. *make restitution by repaying all monetary scholarship awards, plus penalty, plus interest on such restitution to the Commonwealth of Virginia. A recipient will be considered to be in such default on the date:*

a. The commissioner is notified in writing by the recipient that he does not intend to fulfill his

contractual obligation;

b. The recipient has not accepted a placement and commenced his period of obligated practice as provided for in subdivision 2 of this section; or

c. The recipient absents himself without the consent of the commissioner from the place of medical practice which the commissioner has approved for fulfillment of his contractual obligation.

11. Provide that for a recipient who fulfills part of the contractual obligation by practicing primary care medicine in a medically underserved area, or in a designated state facility, for one or more years, the total amount of scholarship funds received, and owed, shall be reduced by the amount of the annual scholarship multiplied by the number of years practiced in the appropriate area or facility, and the remainder tripled as provided in subdivision 10 of this section. Partial years of practice may be credited beyond the one year minimum practice requirement.

§ 4.2. Repayment.

A. Unless repayment is forgiven as specified in subdivision 9 of § 4.1 or by special variance as provided in subdivisions 6, 7 and 8 of § 4.1 all scholarships shall be repaid to the Commonwealth, either by the recipient's practice of primary care medicine in a medically underserved area, or designated state facility, or through cash payments as specified in subdivisions 10 and 11 of § 4.1.

B. Repayment by practice.

It is the intent of the Virginia Medical Scholarship Program that recipients repay their scholarship obligation by practice. Each recipient electing to repay by practice shall notify the commissioner in writing of his proposed practice location not more than 30 days after completing his approved residency program. After receiving written approval of his practice location from the commissioner, the recipient shall begin his approved practice not more than 90 days after completing his primary care residency program. A recipient will receive one year of credit toward fulfillment of his scholarship obligation for each 12 months of full-time (minimum of 40 hours per week) continuous primary care practice. Absences from the practice in excess of seven weeks per 12-month practice period for maternity leave, illness, vacation, or any other purpose shall not be credited toward repayment and will extend the recipient's total obligation by the number of weeks of excess absence. Any recipient who partially completes a scholarship obligation by practicing for one year or longer in an approved practice will be required to fulfill the remainder of the scholarship obligation by cash repayment in accordance with subsection C of this section. Credit for partial years of service, beyond the one-year minimum practice requirement, will be applied toward fulfillment of the scholarship obligation.

Final Regulations

C. Cash repayment.

Cash repayment by recipients who terminate their contracts prior to the completion of training shall be made in accordance with subdivisions 6 and 7 of § 4-1 and by recipients who become disabled before fulfilling the practice obligation in accordance with subdivision 8 of § 4-1. Cash repayment by recipients who otherwise fail or refuse to fulfill their practice obligation shall be made in accordance with subdivisions 10 and 11 of § 4-1.

D. Cash repayment amount.

The full amount to be repaid by a recipient who fails or refuses to fulfill the practice obligation shall be determined in the following manner: the annual amount of the scholarship for the year the recipient obtained the scholarship multiplied by three, plus interest (current bank rate of interest on a similar amount of unsecured debt) calculated from the date of receipt of funds by the recipient until the scholarship is fully repaid. Repeat the above calculation for each scholarship that the recipient obtained and add the sums of the calculations to determine the total amount due to be repaid to the Commonwealth.

E. Cash repayment schedule.

Any scholarship to be repaid in cash payments due to the recipient's failure to enter into an approved practice shall be repaid within two years of the completion of the recipient's graduate training. Any scholarship to be repaid in cash payments due after partial repayment by practice shall be paid within two years of the recipient's departure from his approved practice. Failure of any recipient to complete a schedule of cash repayments within the required two years or to enter the practice of primary care medicine in a medically underserved area, or designated state facility, shall be cause for the commissioner to refer the matter to the Attorney General for disposition. The Attorney General shall take such action as the Attorney General deems proper to ensure reimbursement to the Commonwealth. If court action is required to collect a delinquent scholarship account, the recipient shall be responsible for the court costs and reasonable attorney's fees incurred by the Commonwealth in such collection.

PART V. REPAYMENT.

§ 5-1. Repayment.

Repayment requirements for scholarship recipients are as follows:

1. Payment of restitution plus interest shall be due on the date that the recipient is deemed by the commissioner to be in default.
2. The commissioner in his discretion may permit

extension of the period of payment of restitution plus interest for up to 24 months from the date that the recipient is deemed to be in default.

3. Partial fulfillment of the recipient's contractual obligation by the practice of medicine as provided for in this contract, shall reduce the amount of restitution plus interest due by an amount of money equal to the same percentage of all monetary awards as the number of whole months that the recipient has practiced primary care medicine in an approved location is as a percentage of the total number of months of the contractual obligation the recipient has incurred.

4. Failure of a recipient to make any payment on his debt of restitution plus interest when it is due shall be cause for the commissioner to refer the debt to the Attorney General of the Commonwealth of Virginia for collection. The recipient shall be responsible for any costs of collection as may be provided in Virginia law.

PART V. VI. RECORDS AND REPORTING.

§ 5-1. 6.1. Reporting requirements.

Reporting requirements of medical schools and scholarship recipients are as follows:

1. Each Virginia participating medical school shall maintain accurate records of the status of scholarship recipients until the recipients graduate from medical school and during any postgraduate year that a scholarship is awarded. The medical schools shall provide a report listing the status of each recipient annually to the commissioner.
2. Each scholarship recipient shall ; during the post-scholarship award period as an intern or resident, report his location and status to the commissioner and to the medical school where he received scholarship award(s) annually, during the month of July. In addition, each scholarship recipient shall, during his period of obligated practice, report his status annually to the commissioner. The report shall include sufficient information as requested by the commissioner to verify compliance with the practice requirements of the scholarship contract. Additionally, any scholarship recipient shall immediately inform the commissioner of any change in his practice location or change in his practice status. For purposes of this provision, notification within 10 days of any such change shall be considered immediate notification. at any time provide information as requested by the commissioner to verify compliance with the practice requirements of the scholarship contract. The recipient shall report any changes of mailing address, change of academic standing, change of intent to fulfill his contractual obligation and any other information

which may be relevant to the contract at such time as changes or information may occur. The recipient shall promptly respond with such information as may from time to time be requested by the commissioner.

* NOTE: A variance (of one additional year) to the maximum three-year residency limitation will be available to medical scholarship recipients who choose to complete an obstetrics/gynecology residency program or a certificate of added qualification in primary care upon their request.

V.A.R. Doc. No. R94-1079; Filed June 22, 1994, 11:52 a.m.

DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT (BOARD OF)

REGISTRAR'S NOTICE: The Board of Housing and Community Development suspended the regulatory process on § 2.3 B of the regulation entitled "VR 394-01-2, Virginia Certification Standards/1993," beginning March 21, 1994. An additional public hearing was held on this section of the regulation on April 18, 1994. On May 16, 1994, the board adopted § 2.3 B as it was originally proposed in 9:25 V.A.R. 4899 September 6, 1994. The amendments to § 2.3 B become effective August 15, 1994.

Title of Regulation: VR 394-01-2. Virginia Certification Standards/1993.

Statutory Authority: §§ 15.1-11.4, 27-97, 36-98.3, and 36-137 of the Code of Virginia.

Effective Date: August 15, 1994.

Summary:

The change amends the certification standards for master level tradesmen to allow time in trade (10 years) as one way of being permitted to sit for certification examination.

Summary of Public Comment and Agency Responses: No public comment was received by the promulgating agency.

Agency Contact: Copies of the regulation may be obtained from George W. Rickman, Jr., Department of Housing and Community Development, 501 North Second Street, Jackson Center, Richmond, VA 23219-1321, telephone (804) 371-7170. There may be a charge for copies.

VR 394-01-2. Virginia Certification Standards/1993.

PART I. GENERAL.

§ 1.1. Definitions.

The terms used in these standards shall have the following meaning:

"Agent" means the person designated by the county, city, or town, according to local ordinance, to examine and determine an applicant's qualifications for certification.

"Agricultural blasting" means any blasting operation which is conducted on real estate devoted to agricultural or horticultural use as defined in § 58.1-3230 of the Code of Virginia, and no less than five acres in area.

"Apprentice" means a person who assists tradesmen while gaining knowledge of the trade through on-the-job training and related instruction in accordance with the Voluntary Apprenticeship Act, § 40.1-120 of the Code of Virginia.

"Approved" means approved by the Department of Housing and Community Development.

"Blaster" or "shot firer" means the qualified person in charge of, and responsible for, the loading and firing of an explosive or blasting agent.

"Board" means the Board of Housing and Community Development.

"Board of appeals" means the board established by a county, city or town, by local ordinance, to hear appeals concerning the application of Part II and Part VIII of these standards or from a decision of the local board or agent.

"Building official" means the executive official in charge of the local building department.

"Building-related mechanical worker" means a tradesman who does building-related mechanical work, including heating, air conditioning, and ventilation.

"Certified building official" means a person certified by the Council of American Building Officials as a certified building official.

"Code official" means the official who is charged with the administration and enforcement of Volume II of the Virginia Uniform Statewide Building Code.

"Department" means the Department of Housing and Community Development.

"Division" means a limited certification subcategory within any of the trades, as approved by the department.

"Electrical work" consists of, but is not limited to the following: (i) plan and layout of detail for installation or modifications of electrical apparatus and controls, preparation of sketches showing location of wiring and equipment; (ii) measures, cuts, bends, threads, assembles and installs electrical conduits; (iii) performs maintenance on electrical systems and apparatus; (iv) observation of installed systems or apparatus to detect hazards and need for adjustments, relocation or replacement; (v) repairs

Final Regulations

faulty systems or apparatus.

"Electrician" means a tradesman who does electrical work including, but not limited to, installing, repairing and maintaining electrical systems and equipment.

"Fire Alarm System (FAS)" means a system and associated components which provide an indication or warning of fire, smoke or combustion in its incipient stages, or other conditions which affect the operation of the fire alarm system or other systems to which it is connected.

"Fire Alarm System (FAS) Certified Installer" means an individual who does the initial placement of equipment or the extension, modification, alteration, testing, inspection or maintenance of fire alarm equipment and who has satisfactorily completed an examination from an approved testing agency recognized by the Board of Housing and Community Development.

"Fire official" means the designated person charged with the administration and enforcement of the Virginia Statewide Fire Prevention Code.

"Fire Protection Special Hazard System (FPSHS)" means for fire suppression purposes a nonwater based special hazard system of underground or overhead piping designed in accordance with fire protection engineering standards. Such systems include, but are not limited to, carbon dioxide systems, dry chemical systems, wet chemical systems, halon and other chemical or gaseous systems used for fire suppression purposes.

"Fire Protection Special Hazard System (FPSHS) Certified Installer" means an individual who does the initial placement of the equipment or the extension, modification, alteration, testing, inspection or maintenance of fire protection special hazard systems and who has satisfactorily completed an examination from an approved testing agency recognized by the Board of Housing and Community Development.

"Fire Protection Sprinkler System (FPSS)" means for fire suppression purposes an integrated system of underground and overhead piping designed in accordance with fire protection engineering standards. The installation includes one or more automatic water supplies with or without other agents. The portion of the sprinkler system above ground is a network of specially sized or hydraulically designed piping installed in a building, structure, or area generally overhead and to which sprinklers are attached in a systematic pattern.

"Fire Protection Sprinkler System (FPSS) Certified Installer" means an individual who does the initial placement of the equipment or the extension, modification, alteration, testing, inspection or maintenance of fire protection sprinkler systems and who has satisfactorily completed an examination from an approved testing agency recognized by the Board of Housing and

Community Development.

"Formal vocational training" means courses in the trade administered at an accredited educational facility; or formal training, approved by the department, conducted by trade associations, businesses, military, correspondence schools, or other similar training organizations.

"Gasfitter" means a tradesman who does gasfitting related work as a division within the building-related mechanical or plumbing trades.

"Helper" or "laborer" means a person who assists a tradesman certified according to these standards.

"Inspector" means a person authorized by the local official to perform inspections required in regulations adopted and promulgated by the Board of Housing and Community Development.

"Journeyman" means a person who possesses the necessary ability, proficiency and qualifications to install, repair and maintain specific types of materials and equipment, utilizing a working knowledge sufficient to comply with the pertinent provisions of the Virginia Uniform Statewide Building Code and according to plans and specifications.

"Local board" means the board established by a county, city or town, according to local ordinance, to examine and determine an applicant's qualifications for certification.

"Master" means a person who possesses the necessary ability, proficiency and qualifications to plan and lay out the details for installation and supervise the work of installing, repairing, and maintaining specific types of materials and equipment utilizing a working knowledge sufficient to comply with the pertinent provisions of the Uniform Statewide Building Code.

"Plumber" means a tradesman who does plumbing work.

"Plumbing work" means the practice, materials and fixtures used in the installation, maintenance, extension and alteration of all piping, fixtures, appliances and appurtenances in connection with any of the following: sanitary drainage facilities, the venting system and the public or private water-supply systems within or adjacent to any building or structure.

"Professional code administrator" means a person certified by the Board of Housing and Community Development as a professional code administrator.

"Supervisor" means the certified master tradesman who has the responsibility to determine that the final installation is in accordance with the applicable provisions of the Virginia Uniform Statewide Building Code.

"Technical assistant" means any person employed by, or under contract to, a Virginia governing body as an

inspector for determining compliance with the regulations adopted and promulgated by the Board of Housing and Community Development, including plans examination.

"Testing organization" means an independent testing organization whose main function is to develop and administer examinations.

"Trade" means any of the following: plumbing, building-related mechanical or electrical work, and divisions within them.

"Tradesman" means a person who engages in or offers to engage in, for the general public [or] for compensation, any of the trades covered by these standards.

"Virginia Certified Building Official" means a professional code administrator, or a certified building official who has also passed an examination and been certified by the Board of Housing and Community Development.

§ 1.2. Authority.

A. The tradesmen standards are adopted under authority granted by § 15.1-11.4 of the Code of Virginia for use by counties, cities, and towns to be used for the certification of plumbing, building-related mechanical and electrical workers. These standards are not intended to affect licensing by local governments under other provisions of the Code of Virginia.

B. The building official, fire official, code official, technical assistants, and amusement device inspectors standards are adopted under authority granted by §§ 36-137(6) and 36-98.3 of the Code of Virginia for the certification of building officials, technical assistants and amusement device inspectors.

C. The certification standards for blasters are adopted under authority granted by § 27-97 of the Code of Virginia.

D. These standards were adopted by order of the Board of Housing and Community Development on December 13, 1993. This order was prepared according to the requirements of the Administrative Process Act. The order is maintained as part of the records of the Department of Housing and Community Development and is available for public inspection.

E. The 1993 edition of these standards replaces previous editions. It shall become effective on April 1, 1994. Persons already enrolled in a certification program shall remain subject to the edition in effect at the time of enrollment. Subsequent enrollment shall be subject to the pertinent provisions of the standards in effect at the time of enrollment.

F. The Department of Housing and Community Development shall be the administrative agency providing

advisory interpretations concerning the application of these standards.

G. The Department of Housing and Community Development may utilize testing organizations that develop and administer examinations based on the current provisions of the Virginia Uniform Statewide Building Code, Virginia Statewide Fire Prevention Code, Virginia Amusement Device Regulations, and the model codes and standards referenced by those regulations including standards for plumbing, building-related mechanical and electrical work. The department may designate divisional examinations within these trades.

PART II. CERTIFICATION OF TRADESMAN STANDARDS.

§ 2.1. Exemption from certification.

A. Plumbers, plumber-gasfitters, building-related mechanical workers, building-related mechanical gas-fitters or electricians who were certified or licensed prior to July 1, 1978, in accordance with the certification or licensing provisions of the Commonwealth or any local government, shall be exempt from any further local certification requirement for the same trade.

B. Helpers or laborers who assist certified tradesmen shall be exempt.

C. Any person who performs plumbing, plumbing gas-fitting, building-related mechanical gas-fitting, building-related mechanical, or electrical work not for the general public for compensation shall be exempt from local certification.

D. Any person who installs television or telephone cables, or lightning arrestor systems shall be exempt from certification as an electrician. Installers of wood stove equipment, masonry or prefabricated chimneys, or duct systems shall be exempt from certification as a building-related mechanical worker.

§ 2.2. Temporary certification.

A. Upon initial adoption of the Tradesmen Certification Standards, a locality shall be entitled to issue temporary journeymen and master tradesmen certificates to applicants that furnish evidence documenting their competence to perform work at their desired level of certification.

B. Temporary journeymen and master tradesmen certificates shall be effective for a period of six months from the date of issuance. Localities may extend a temporary tradesmen certificate for no longer than one additional six-month period, if the locality determines that the certificate holder is making an effort towards certification or special circumstances exist, or both.

C. Temporary journeymen and master tradesmen

Final Regulations

certificates shall be valid only in the jurisdiction of the issuing locality.

D. A temporary journeymen or master tradesmen certificate shall entitle the certificate holder to take the corresponding journeymen or master tradesmen certification examination.

E. Should the holder of a temporary journeymen or master tradesmen certificate fail to pass the appropriate certification examination by the expiration date of their temporary certificate, the individual shall be subject to the requirements of § 2.3 of these standards.

§ 2.3. Evidence of ability and proficiency.

A. Applicants for examination to be certified as a journeyman shall furnish evidence that one of the following experience and education standards has been attained:

1. Four years of practical experience in the trade, and 240 hours of formal vocational training in the trade; however, experience in excess of four years may be substituted for formal vocational training at a ratio of one year of experience for 80 hours of formal training, but not to exceed 200 hours; or
2. Successful completion of a registered apprenticeship program established in accordance with the Virginia Voluntary Apprenticeship Act; or
3. A Bachelor's Degree in an engineering curriculum related to the trade for which certification is desired, and one year of practical experience in the trade for which certification is desired; or
4. Ten years of practical experience in the trade for which certification is desired.

B. Applicants for examination to be certified as a master shall furnish evidence that ~~they have one year of experience as a certified journeyman~~ *one of the following experience and education standards has been attained:*

1. *Meet the requirements of § 2.3 A and have one additional year of supervisory experience, or*
2. *Ten years of practical experience in the trade for which certification is desired.*

C. Individuals who have successfully passed the Class A contractors examination prior to January 1, 1991, administered by the Virginia Board for Contractors in a certified trade shall be deemed qualified as a master in that trade in accordance with these standards.

§ 2.4. Application and issuance of certificates.

A. An applicant must successfully complete an examination to be issued a card and deemed certified.

B. The local board or agent shall receive and review applications and forward applications to the national testing organizations designated by the department.

C. The applicant shall present to the local board or agent evidence of successful completion of an examination based on the current edition of the Virginia Uniform Statewide Building Code.

D. The local board or agent shall issue certificates provided by the department to applicants successfully completing the examination.

E. Apprentices that completed a program prior to July 1, 1981, shall make application for certification with a locality; apprentices completing programs after July 1, 1981, shall make application with the Department of Labor and Industry, Apprenticeship Division.

§ 2.5. Revocation of certification.

A. Certification may be revoked for misrepresentation or a fraudulent application, or for incompetence as demonstrated by an egregious or repeated violations of the Virginia Uniform Statewide Building Code.

B. The Department of Housing and Community Development shall be notified by the local board or agent when a certification has been revoked in accordance with provisions of these standards.

§ 2.6. Other recognized programs.

Individuals certified as a journeyman or master by governing bodies located outside the Commonwealth of Virginia shall be considered to be in compliance with these standards, if the Department of Housing and Community Development has determined the certifying system to be equivalent to the Virginia system.

§ 2.7. Appeals.

A. Each local governing body shall establish a board of appeals. The local board of appeals shall consist of not less than five members appointed by the local government. Members shall be selected on the basis of their ability to render fair and competent decisions. Employees or officials of the local government appointing the board of appeals shall not serve as members. The agent shall designate an employee to serve as secretary to the board of appeals, who shall keep a detailed record of all proceedings. The board of appeals shall hear appeals concerning the application of these standards or from a decision of the local agent or certification board. Application for appeals shall be in writing and made within 90 days of receipt of the decision of the agent or certification board. The appeals board must meet within 20 working days of the filing of an appeal. All hearings shall be open to the public.

B. Any person aggrieved by a decision of a local board

of appeals may appeal to the State Building Code Technical Review Board in accordance with § 116.0 of the Uniform Statewide Building Code, Volume I.

PART III. CERTIFICATION PROGRAM FOR BUILDING OFFICIALS AND TECHNICAL ASSISTANTS.

§ 3.1. Exemption from certification.

A. An individual employed as the building official in any locality in Virginia prior to April 1, 1983, shall be exempt from certification while employed as the building official in that jurisdiction. This exemption shall not apply to subsequent employment in another jurisdiction, or a change in area of inspection discipline.

B. An individual employed as the building, electrical, plumbing, mechanical, fire protection systems inspector or plans examiner in Virginia prior to March 1, 1988, shall be exempt from certification while employed as the technical assistant in that jurisdiction. This exemption shall not apply to subsequent employment as a technical assistant in another jurisdiction.

§ 3.2. Certification.

To be eligible for certification an applicant shall meet the following criteria:

1. The applicant shall be qualified according to Volume I of the Uniform Statewide Building Code (USBC).
2. The applicant shall successfully complete an examination developed and administered by an approved testing agency listed in Appendix A.
3. The applicant shall complete the core and applicable advanced modules of the Virginia Building Code Academy.
4. The applicant shall submit an application for certification along with a copy of examination results from the testing agency to the Training and Certification Office.

§ 3.3. Maintenance of certification.

A. To maintain certification a certificate holder shall attend programs of instruction as mandated by the Department of Housing and Community Development and after each code change cycle of the Uniform Statewide Building Code (USBC) and Virginia Statewide Fire Prevention Code (SFPC).

B. Certificate holders are responsible for notifying the Department of Housing and Community Development of address changes.

§ 3.4. Revocation of certification.

The board may revoke the certification for any of the following:

1. Any willful misrepresentation in obtaining or renewing the certification.
2. Gross negligence or continued incompetence in the practice of the profession.

§ 3.5. Appeals.

Any person aggrieved by a decision based upon application of this certification standard may appeal that decision, in writing, directly to the State Building Code Technical Review Board in accordance with the appeals process outlined in § 116.0 of the Virginia Uniform Statewide Building Code, Volume I.

PART IV. BLASTER CERTIFICATION.

§ 4.1. Exemption from certification.

Individuals conducting agricultural blasting operations on their own property are not required to be certified as a blaster.

§ 4.2. Certification.

Certification shall be in the following two classifications:

1. Unrestricted blaster. A person classified as a certified unrestricted blaster shall be qualified to conduct appropriate blasting without limit as to size of shot or type of detonation devices. An applicant for unrestricted blaster certification shall successfully complete an examination developed and administered by a recognized and approved testing agency listed in Appendix A.
2. Restricted blaster. A person classified as a certified restricted blaster shall be qualified to conduct blasting operations involving five pounds of explosives or less per shot and use only instantaneous blasting caps. An applicant for restricted blaster certification shall successfully complete an examination developed and administered by a recognized and approved testing agency listed in Appendix A.

§ 4.3. Qualifications of candidates.

An applicant for a blaster's certification shall meet the following criteria:

1. Be at least 21 years of age;
2. Be able to understand and give written and oral instructions in the English language;
3. a. For unrestricted blaster certification, have worked at least one year under the direct supervision

Final Regulations

of a blaster certified by the Commonwealth of Virginia or another authority recognized by the Department of Housing and Community Development;

b. For restricted blaster certification, have worked at least one year under the direct supervision of an individual certified as an unrestricted blaster or as a restricted blaster by the Commonwealth of Virginia or another authority recognized by the Department of Housing and Community Development.

NOTE: In no case shall a certified restricted blaster's supervision be acceptable for an unrestricted blaster's experience requirements.

4. Have a working knowledge of federal, state, and local laws and regulations pertaining to explosive materials.

§ 4.4. Temporary certification.

A temporary certificate may be issued to any person who meets the applicant criteria listed in § 4.3. Any temporary certificate issued shall expire 12 months from the date of issuance. Temporary certifications shall not be renewed.

§ 4.5. Renewal.

A blasters certificate shall be renewed every three years from date of issuance. As a condition of renewal, proof of continued training or education in the use of explosives in an amount not less than 16 hours in three consecutive years shall be provided to the department. Requests for renewal shall be submitted on forms provided by the department.

§ 4.6. Revocation or suspension of certification.

The Department of Housing and Community Development may revoke or suspend certification issued under the provisions of this regulation if conditions of the certification have been violated, or if there has been any false statement or misrepresentation in the application on which the certification was based or for incompetence as demonstrated by flagrant and repeated violations of the SFPC, or participating in three or more incidents within a five-year period resulting in property damage, injury or death.

§ 4.7. Appeals.

Any person aggrieved by a decision based upon application of this certification standard may appeal that decision, in writing, directly to the State Building Code Technical Review Board in accordance with the appeals process outlined in § 116.0 of the Virginia Uniform Statewide Building Code, Volume I.

PART V.

CERTIFICATION OF AMUSEMENT DEVICE INSPECTOR STANDARDS.

§ 5.1. Certification.

A. To be eligible for certification, an applicant shall meet the following criteria:

1. The applicant shall have at least three years of experience in general building construction or any combination of education and experience which would confer equivalent knowledge and ability;

2. The applicant shall successfully complete an examination developed and administered by an approved testing agency listed in Appendix A; and

3. The applicant shall submit an application for certification and a copy of examination results from the testing agency to the Training and Certification Office.

B. Notwithstanding any regulations to the contrary, no exemption shall be permitted from the requirements for certification for any person, including local building officials and their representatives, to inspect amusement devices.

§ 5.2. Maintenance of certification.

A. To maintain certification, a certificate holder shall attend programs of instruction as mandated by the Department of Housing and Community Development and after each code change cycle of the Virginia Amusement Device Regulations.

B. Certificate holders are responsible for notifying the Department of Housing and Community Development of address changes.

§ 5.3. Revocation or suspension of certification.

The Department of Housing and Community Development may revoke or suspend certification issued under the provisions of this code if conditions of the certification have been violated, or if there have been any false statements or misrepresentations in the application on which the certification was based.

§ 5.4. Appeals.

Any person aggrieved by a decision based upon application of this certification standard may appeal that decision, in writing, directly to the State Building Code Technical Review Board in accordance with the appeals process outlined in § 116.0 of the Virginia Uniform Statewide Building Code, Volume I.

PART VI. CERTIFICATION PROGRAM FOR FIRE OFFICIALS AND TECHNICAL ASSISTANTS.

§ 6.1. Certification.

To be eligible for certification an applicant shall meet the following criteria:

1. The applicant shall be qualified according to the Virginia Statewide Fire Prevention Code (SFPC).
2. The applicant shall successfully complete an examination developed and administered by an approved testing agency listed in Appendix A.
3. a. The fire official shall complete a designated program of the Virginia Building and Fire Code Academy, developed in cooperation with the Department of Fire Programs and administered by the Department of Housing and Community Development.
- b. The technical assistants shall complete the "Fire Inspector II" course developed in cooperation with the Department of Housing and Community Development and administered by the Department of Fire Programs.
4. The applicant shall submit an application for certification and a copy of examination results from the testing agency to the Training and Certification Office.

§ 6.2. Maintenance of certification.

A. To maintain certification a certificate holder shall attend programs of instruction as mandated by the Department of Housing and Community Development and after each code change cycle of the Virginia Uniform Statewide Building Code (USBC) and Virginia Statewide Fire Prevention Code (SFPC).

B. Certificate holders are responsible for notifying the Department of Housing and Community Development of address changes.

§ 6.3. Revocation of certification.

The board may revoke the certification for any of the following:

1. Any willful misrepresentation in obtaining the certification.
2. Gross negligence or continued incompetence in the practice of the profession.

§ 6.4. Appeals.

Any person aggrieved by a decision based upon application of this certification standard may appeal that decision, in writing, directly to the State Building Code Technical Review Board in accordance with the appeals process outlined in § F-105.0 of the Virginia Statewide Fire Prevention Code.

PART VII. CERTIFICATION PROGRAM FOR CODE OFFICIALS AND TECHNICAL ASSISTANTS.

§ 7.1. Exemption from certification.

A. An individual employed as the code official in any locality in Virginia prior to April 1, 1995, shall be exempt from certification while employed as the code official in that jurisdiction. This exemption shall not apply to subsequent employment in another jurisdiction.

B. An individual employed as the technical assistant in any locality in Virginia prior to April 1, 1995, shall be exempt from certification while employed as the technical assistant in that jurisdiction. This exemption shall not apply to subsequent employment in another jurisdiction.

§ 7.2. Certification.

To be eligible for certification an applicant shall meet the following criteria:

1. The applicant shall be qualified according to the Virginia Uniform Statewide Building Code, Volume II.
2. The applicant shall successfully complete an examination developed and administered by an approved testing agency listed in Appendix A.
3. The applicant shall complete designated programs of the Virginia Building Code Academy.
4. The applicant shall submit an application for certification along with a copy of examination results from the testing agency to the Training and Certification Office.

§ 7.3. Maintenance of certification.

A. To maintain certification a certificate holder shall attend programs of instruction as mandated by the Department of Housing and Community Development and after each code change cycle of the Virginia Uniform Statewide Building Code (USBC) and Virginia Statewide Fire Prevention Code (SFPC).

B. Certificate holders are responsible for notifying the Department of Housing and Community Development of address changes.

§ 7.4. Revocation of certification.

The board may revoke the certification for any of the following:

1. Any willful misrepresentation in obtaining the certification.
2. Gross negligence or continued incompetence in the practice of the profession.

Final Regulations

§ 7.5. Appeals.

Any person aggrieved by a decision based upon application of this certification standard may appeal that decision, in writing, directly to the State Building Code Technical Review Board in accordance with the appeals process outlined in § 106.0 of the Virginia Uniform Statewide Building Code, Volume II.

PART VIII. FIRE PROTECTION SYSTEM CERTIFICATION.

§ 8.1. Certification.

Designated individuals engaged in the installation of Fire Alarm Systems (FAS), Fire Protection Sprinkler Systems (FPSS), or Fire Protection Special Hazard Systems (FPSHS) shall become certified by April 1, 1997.

To be eligible for certification, an applicant shall meet the following criteria:

1. The applicant shall successfully complete an examination developed and administered by an approved testing agency listed in Appendix A.
2. The applicant shall submit an application for certification along with a copy of examination results from the testing agency to the Training and Certification Office.

§ 8.2. Revocation of certification.

The board may revoke the certification for any of the following:

1. Any willful misrepresentation in obtaining the certification.
2. Gross negligence or continued incompetence in the practice of the profession.

§ 8.3. Appeals.

A. Each local governing body shall establish a board of appeals. The local board of appeals shall consist of not less than five members appointed by the local government. Members shall be selected on the basis of their ability to render fair and competent decisions. Employees or officials of the local government appointing the board of appeals shall not serve as members. The agent shall designate an employee to serve as secretary to the board of appeals, who shall keep a detailed record of all proceedings. The board of appeals shall hear appeals concerning the application of these standards or from a decision of the local agent or certification board. Application for appeals shall be in writing and made within 90 days of receipt of the decision of the agent or certification board. The appeals board must meet within 20 working days of the filing of an appeal. All hearings shall be open to the public.

B. Any person aggrieved by a decision of a local board of appeals may appeal to the State Building Code Technical Review Board in accordance with § 116.0 of the Uniform Statewide Building Code, Volume I.

APPENDIX A. TESTING AGENCIES.

The following testing agencies have been approved by the Department of Housing and Community Development for administering examinations. Other examinations may be approved on an individual basis. Requests for approval of examinations shall be submitted to the department.

Certified Building Official

Information and registration forms may be obtained from:

Council of American Building Officials (CABO)
5203 Leesburg Pike
Suite 708
Falls Church, VA 22041
(703) 931-4533

Inspector Certification Program

Information and registration forms may be obtained from:

Certification Training and Education Services
BOCA International
4051 West Flossmoor Road
Country Club Hills, IL 60477
(708) 799-2300

Educational Testing Service
P.O. Box 6508
Princeton, New Jersey 08541-6508
(609) 921-9000

National Association of Elevator Safety Authorities
P.O. Box 15643
Phoenix, Arizona 85060
(602) 266-9701

Amusement Device Inspector Program

Information and registration forms may be obtained from:

NAI, Inc.
National Assessment Institute
9881 Mayland Drive, Suite 110
Richmond, VA 23229
(804) 747-3297

Blaster Certification Program

Information and registration forms may be obtained from:

NAI, Inc.
National Assessment Institute
9881 Mayland Drive, Suite 110

Richmond, VA 23229
(804) 747-3297

Professional Code Administrator Certification Program

Information and registration forms may be obtained from:

Board of Housing and Community Development
501 North Second Street
Richmond, VA 23219
Attention: Training and Certification Office
(804) 371-7180

V.A.R. Doc. No. R94-1080; Filed June 22, 1994, 11:45 am.

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REGISTRAR'S NOTICE: The Board of Housing and Community Development suspended the regulatory process on Section F-3205.8 of the regulation entitled "VR 394-01-6, Virginia Statewide Fire Prevention Code/1993," beginning March 21, 1994. An additional public hearing was held on this section on April 18, 1994. On May 16, 1994, the board adopted Section F-3205.8 with an effective date of August 15, 1994.

Title of Regulation: VR 394-01-6. Virginia Statewide Fire Prevention Code/1993.

Statutory Authority: § 27-97 of the Code of Virginia.

Effective Date: August 15, 1994.

Summary:

The change amends the 1993 Edition of the National Model Fire Prevention Code to allow operation of unattended service stations when renovated to comply with the National Fire Protection Association Standard.

Summary of Public Comment: A summary of comments made by the public may be obtained from the promulgating agency or viewed at the office of the Registrar of Regulations.

Agency Contact: Copies of the regulation may be obtained from George W. Rickman, Jr., Department of Housing and Community Development, Jackson Center, 501 North Second Street, Richmond, VA 23219-1321, telephone (804) 371-7170. There may be a charge for copies.

VR 394-01-6. Virginia Statewide Fire Prevention Code/1993.

CHAPTER 1. ADMINISTRATION.

SECTION F-100.0. GENERAL.

F-100.1. Title. These regulations shall be known as the Virginia Statewide Fire Prevention Code (SFPC). Except as otherwise indicated, SFPC or code shall mean the 1993 edition of the Virginia Statewide Fire Prevention Code.

F-100.2. Authority. The SFPC is adopted according to regulatory authority granted the Board of Housing and Community Development (BHCD) by the Statewide Fire Prevention Code Act, Chapter 9, Title 27, §§ 27-94 through 27-101 of the Code of Virginia.

F-100.3. Adoption. The SFPC was adopted by order of the Board of Housing and Community Development on December 13, 1993. This order was prepared according to the requirements of the Administrative Process Act. The order is maintained as part of the records of the Department of Housing and Community Development (DHCD), and is available for public inspection.

F-100.4. Effective date. The SFPC shall become effective on April 1, 1994.

F-100.5. Effect on other codes. The SFPC shall apply to all buildings and structures as defined in the Uniform Statewide Building Code Law, Chapter 6, Title 36, Code of Virginia. The SFPC shall supersede the fire prevention regulations previously adopted by local government or other political subdivisions. When any provision of this code is found to be in conflict with the Uniform Statewide Building Code (USBC), OSHA, or applicable laws of the Commonwealth, that provision of the SFPC shall become invalid. Wherever the words "building code" appear, they shall mean the building code in effect at the time of construction.

F-100.6. Purpose. The purpose of the SFPC is to provide statewide standards for optional local enforcement to safeguard life and property from the hazards of fire or explosion arising from the improper maintenance of life safety and fire prevention and protection materials, devices, systems and structures, and the unsafe storage, handling and use of substances, materials and devices, including explosives and blasting agents, wherever located.

F-100.7. Application to post-Uniform Statewide Building Code (USBC) buildings. Egress facilities, fire protection, built-in fire protection equipment, and other fire safety features in such buildings shall be maintained in accordance with the requirements of the USBC in effect at the time the building or structure was constructed.

F-100.8. Application to pre-Uniform Statewide Building Code (USBC) buildings. Pre-USBC buildings are those buildings that were not subject to the USBC when constructed. Such buildings shall be maintained in accordance with the Virginia Public Building Safety Regulations (VR 394-01-05) which are hereby incorporated into this code by reference, and other applicable requirements of this code.

Note: The Virginia Public Building Safety Regulations

Final Regulations

(VR 394-01-05) are available from the Training and Certification Office (DHCD), 501 North Second Street, Richmond, VA 23219-1321.

F-100.9. Special provisions. The fire official shall require that buildings subject to the requirements of Section 108.0 of the Uniform Statewide Building Code, Volume II - Building Maintenance Code, 1993 Edition, comply with the provisions of that section. Exception: Family day homes as defined in § 63.1-195 of the Code of Virginia shall be exempt from this provision.

F-100.10. Exemptions for farm structures. Farm structures not used for residential purposes shall be exempt from the provisions of the SFPC.

SECTION F-101.0. REFERENCED STANDARDS AND AMENDMENTS.

F-101.1. Adoption of model code. The following model code, as amended by Sections F-101.2 and F-101.3, is hereby adopted and incorporated in the SFPC.

The BOCA National Fire Prevention Code/1993 Edition, published by: Building Officials and Code Administrators International, Inc., 4051 West Flossmoor Road, Country Club Hills, IL 60477.

F-101.2. Administrative and enforcement amendments to the referenced model code. All requirements of the referenced model code and standards that relate to administrative and enforcement matters are deleted and replaced by Chapter 1 of the SFPC.

F-101.3. Other amendments to the referenced model code. The amendments noted in Addendum 1 shall be made to the specified articles and sections of the BOCA National Fire Prevention Code/1993 Edition.

F-101.4. Limitation of application of model code. No provision of the model code shall affect the manner of construction, or materials to be used in the erection, alteration, repair, or use of a building or structure.

SECTION F-102.0. ENFORCEMENT AUTHORITY.

F-102.1. Enforcement. Any local government may enforce the SFPC after official action. The local governing body may assign responsibility for enforcement of the SFPC to the local agency or agencies of its choice. The State Fire Marshal shall have authority to enforce the SFPC in jurisdictions in which the local governments do not enforce the code. The State Fire Marshal's office shall be notified by the local government in writing when the fire official has been appointed and shall provide a copy of the resolution or ordinance adopting the enforcement provisions of the SFPC. The terms "enforcing agency" and "fire official" apply to the agency or agencies responsible for enforcement. The terms "building official" or "building department" apply only to the local building official or

building department.

F-102.1.1. Modifications. The fire official may grant modifications to any provisions of the Statewide Fire Prevention Code upon application of the owner or the owner's representative, provided that the spirit and intent of the code is observed and public health, welfare and safety are assured.

F-102.1.1.1. Records. The application for modification and the final decision of the fire official shall be in writing and shall be officially recorded.

F-102.2. Alternative methods and materials. The provisions of this code are not intended to prevent the use of any material or method of work not specifically prescribed by this code, provided that such alternative shall comply with the intent of the provisions of this code. The material, method or work offered shall be, for the purpose intended, at least the equivalent of that prescribed in this code in quality, strength, effectiveness, fireresistance, durability and safety.

F-102.2.1. Supporting data. The fire official shall require that sufficient technical data be submitted to substantiate the proposed use of any material or assembly. If it is determined that the evidence presented is satisfactory proof of performance for the use intended, the fire official shall approve the use of such alternative subject to the requirements of this code. Supporting data, when required by the fire official to assist in the approval of all materials or assemblies not specifically provided for in this code, shall consist of duly authenticated research reports from approved sources.

F-102.3. Qualifications and certification of fire officials and technical assistants. Fire officials and technical assistants shall meet the standards set forth in Sections F-102.3.1 and F-102.3.2.

F-102.3.1. Certification of fire official. The fire official shall be certified in accordance with the Virginia Certification Standards (VR 394-01-2) within three years after date of employment.

Exception: An individual employed as the fire official in a locality in Virginia prior to April 1, 1994, shall be exempt from certification while employed as the fire official in that jurisdiction. This exemption shall not apply to subsequent employment as the fire official in another jurisdiction.

F-102.3.2. Certification of technical assistants. The technical assistants shall be certified in accordance with the Virginia Certification Standards (VR 394-01-2) within three years after date of employment.

Exceptions:

1. An individual employed as a technical assistant in a locality in Virginia prior to April 1, 1994, shall be

exempt from certification while employed as the technical assistant in that jurisdiction. This exception shall not apply to subsequent employment as a technical assistant in another jurisdiction.

2. An employee not having responsibility for code enforcement under the Virginia Statewide Fire Prevention Code shall be exempt from certification. Code enforcement shall mean, at a minimum, those actions outlined in §§ F-106.7 and F-106.9 of the Virginia Statewide Fire Prevention Code.

F-102.4. Maintenance inspections. The fire official may inspect all buildings, structures and premises to assure compliance with this code or any other ordinance affecting fire safety.

Exceptions:

1. Single family dwellings.
2. Dwelling units in multi-family dwellings.

F-102.5. Right of entry. The fire official may enter any structure or premises when there is reasonable cause to believe that an unsafe condition exists. Proper credentials shall be presented before entering occupied structures or premises. Legal assistance may be requested if entry is refused.

F-102.6. Coordinated inspections. The fire official shall coordinate inspections and administrative orders with any other state and local agencies having related inspection authority, and shall coordinate with the local building department on those inspections required by the USBC, Volume I, for new construction, when involving provisions of the BOCA National Fire Prevention Code, so that the owners and occupants will not be subjected to numerous inspections or conflicting orders. Whenever the fire official or an authorized representative observes an apparent or actual violation of the provisions of another law, ordinance or code, not within the inspector's authority to enforce, the inspector shall report the findings to the official having jurisdiction in order that such official may institute the necessary measures.

Note: Section 110.8 of the USBC, Volume I, requires the building official to coordinate those inspections with the local fire official.

F-102.7. Records. The local fire official shall keep records of fires, inspections, notices, orders issued, and other matters as directed by the local government. Fire records shall include information as to the cause, origin and the extent of damage. Records may be disposed of in accordance with the provisions of the Virginia Public Records Act (§ 42.1-76 et seq.) of the Code of Virginia, (a) after 20 years in the case of arson fires, (b) after five years in nonarson fires, and (c) after three years in the case of all other reports, notices, and orders issued.

F-102.8. Relief from personal responsibility. The local enforcing agency personnel shall not be personally liable for any damages sustained by any person in excess of the policy limits of errors and omissions insurance, or other equivalent insurance obtained by the locality to insure against any action that may occur to persons or property as a result of any act required or permitted in the discharge of official duties while assigned to the department as an employee. The fire official or his subordinates shall not be personally liable for costs in any action, suit or proceedings that may be instituted in pursuance of the provisions of the SFPC as a result of any act required or permitted in the discharge of official duties while assigned to the enforcing agency as an employee, whether or not said costs are covered by insurance. Any suit instituted against any officer or employee because of an act performed in the discharge of the SFPC may be defended by the enforcing agency's legal representative. The State Fire Marshal or his subordinates shall not be personally liable for damages or costs sustained by any person when the State Fire Marshal or his subordinates are enforcing this code as part of their official duties under Section F-102.1.

F-102.9. Local regulations. Local governments may adopt fire prevention regulations that are more restrictive or more extensive in scope than the SFPC provided such regulations are not more restrictive than the USBC and do not affect the manner of construction, or materials to be used in the erection, alteration, repair, or use of a building or structure.

F-102.10. Procedures or requirements. The local governing body may establish such procedures or requirements as may be necessary for the enforcement of the SFPC.

F-102.11. Control of conflict of interest. The minimum standards of conduct for officials and employees of the enforcing agency shall be in accordance with the provisions of the State and Local Government Conflict of Interests Act, Chapter 40.1 (§ 2.1-639.1 et seq.) of Title 2.1 of the Code of Virginia.

SECTION F-103.0.

DUTIES AND POWERS OF THE FIRE OFFICIAL.

F-103.1. General. The fire official shall enforce the provisions of the SFPC as provided herein and as interpreted by the State Building Code Technical Review Board in accordance with § 36-118 of the Code of Virginia.

F-103.2. Notices and orders. The fire official shall issue all necessary notices or orders to ensure compliance with the SFPC.

F-103.3. Delegation of duties and powers. The fire official may delegate duties and powers subject to any limitations imposed by the local government, but shall be responsible that any powers and duties delegated are carried out in accordance with this code.

Final Regulations

SECTION F-104.0. PERMITS.

F-104.1. General. The fire official may require notification prior to activities involving the handling, storage or use of substances, materials or devices regulated by the SFPC; or to conducting processes which produce conditions hazardous to life or property; or to establishing a place of assembly.

F-104.1.1. State permits. The State Fire Marshal will not issue permits under the SFPC except that annual permits shall be issued under Chapter 30, Explosives, Ammunition and Blasting Agents.

F-104.1.2. Local permits. In those jurisdictions that enforce the SFPC, the Fire Official shall issue permits as required by Chapter 30, Explosives, Ammunition and Blasting Agents.

F-104.2. Permits required. The local fire official may require permits to be obtained as specified in the model code. Permits shall be made available to the fire official upon request.

F-104.3. Application for permit. Application for a permit shall be made on forms prescribed by the local fire official.

F-104.4. Issuance of permits. Before a permit is issued, the local fire official shall make such inspections or tests as are necessary to assure that the use and activities for which application is made comply with the provisions of this code.

F-104.5. Conditions of permit. A permit shall constitute permission to store or handle materials, or to conduct processes in accordance with the SFPC and shall not be construed as authority to omit or amend any of the provisions of this code. Permits shall remain in effect until revoked, or for such period of time specified on the permit. Permits are not transferable.

F-104.6. Approved plans. Plans approved by the fire official are approved with the intent that they comply in all respects to this code. Any omissions or errors on the plans do not relieve the applicant of complying with all applicable requirements of this code.

F-104.7. Revocation of permit. The local fire official may revoke a permit or approval issued under the SFPC if conditions of the permit have been violated, or if the approved application, data or plans contain misrepresentation as to material fact.

F-104.8. Suspension of permit. A permit shall become invalid if the authorized activity is not commenced within six months after issuance of the permit, or if the authorized activity is suspended or abandoned for a period of six months after the time of commencement.

F-104.9. Fees. Fees may be levied by the enforcing agency in order to defray the cost of enforcement and appeals. The fees listed in Table F-104.9 shall be levied on those permits issued in accordance with F-104.1.1.

Table F-104.9.

FEE SCHEDULE FOR EXPLOSIVES PERMITS ISSUED BY THE STATE FIRE MARSHAL

Type of Permit	Fee
To possess, store or dispose of explosives or blasting agents	\$50.00 per year
To use explosives or blasting agents	\$75.00 per year

SECTION F-105.0. APPEALS.

F-105.1. General. Appeals concerning the application of the Statewide Fire Prevention Code (SFPC) by the local enforcing agency shall first lie to a local Board of Fire Prevention Code Appeals (BFPCA) established in accordance with this section. Appeals from the application of the SFPC by the State Fire Marshal shall be made directly to the State Building Code Technical Review Board (TRB). Local governments without a BFPCA shall enter into an agreement with the governing body of another county or municipality or with some other agency, or a state agency, approved by the Department of Housing and Community Development to act on appeals.

F-105.2. Membership of BFPCA. The BFPCA shall consist of at least five members appointed by the local government and having terms of office established by written policy. Alternate members may be appointed to serve in the absence of any regular members and, as such, shall have the full power and authority of the regular members. Regular and alternate members may be reappointed. Written records of current membership, including a record of the current chairman and secretary, shall be maintained by the enforcing agency. In order to provide continuity, the terms of the members may be of different length so that less than half will expire in any one-year period.

F-105.2.1. Chairman. The BFPCA shall annually select one of its regular members to serve as chairman. In the event of the absence of the chairman at a hearing, the members present shall select an acting chairman.

F-105.2.2. Secretary. The local government shall appoint a secretary to the BFPCA to maintain a detailed record of all proceedings.

F-105.3. Qualifications of BFPCA members. BFPCA members shall be selected on the basis of their ability to render fair and competent decisions regarding application of the SFPC and shall to the extent possible, represent different occupational or professional fields relating to

building construction or fire prevention. Employees or officials of the local government shall not serve as members of the BFPCA.

F-105.4. Disqualification of member. A member of the BFPCA shall not hear an appeal in which that member has any personal, professional, financial or any other conflict of interest.

F-105.5. Application for appeal. An owner or occupant of a building, structure or property may appeal a decision of a local enforcing agency concerning the application of the SFPC to that building, structure or property by submitting a written request for appeal to the enforcing agency within 14 calendar days from the receipt of the decisions to be appealed. A copy of the written decision of the enforcing agency upon which the appeal is being made shall be submitted by the applicant and retained as part of the record by the secretary of the BFPCA. In the case of an appeal of the decision of the State Fire Marshal, the applicant shall submit an application for appeal to the office of the TRB within 14 calendar days from the receipt of the decision to be appealed. A copy of the written decision of the State Fire Marshal upon which the appeal is being made shall also be submitted. The application for appeal shall be stamped or otherwise marked by the enforcing agency or the office of the TRB to indicate the date received. Failure to submit an application for appeal within the time limit established by this action shall constitute an acceptance of the enforcing agency or State Fire Marshal's decision.

F-105.6. BFPCA meeting. The BFPCA shall meet within 30 calendar days after the date of receipt of the application for appeal. Notice indicating the time and place of the hearing shall be sent to the parties in writing at least 14 calendar days prior to the date of the hearing. Less notice may be given if agreed upon by the applicant.

F-105.7. Hearing procedures. All hearings before the BFPCA shall be open to the public. The applicant, the enforcing agency's representative and any person whose interests are affected shall be given an opportunity to be heard. The chairman shall have the power and duty to direct the hearing, rule upon the acceptance of evidence and oversee the record of all proceedings. Hearings from a decision of the State Fire Marshal to the TRB are governed by Article 2 (§ 36-108 et seq.) of Chapter 6 of Title 36 of the Code of Virginia.

F-105.7.1. Postponement. When five members of the BFPCA are not present to hear an appeal, the applicant shall have the right to request a postponement of the hearing. The enforcing agency shall reschedule the appeal within 30 calendar days of the postponement.

F-105.8. Decision of BFPCA. The BFPCA shall have the power to reverse or modify the decision of the enforcing agency by a concurring vote of a majority of those present.

F-105.8.1. Resolution. The decision of the BFPCA shall be by resolution signed by the chairman and retained as part of the record by the enforcing agency. The following wording shall be part of the resolution :

"Upon receipt of this decision, any person who was a party to the appeal may appeal to the State Building Code Technical Review Board by submitting an application to the State Building Code Technical Review Board within 21 calendar days. Application forms are available from the Office of the State Building Code Technical Review Board, 501 North Second Street, Richmond, Virginia 23219, (804) 371-7170."

F-105.9. Further appeal. After final determination by the BFPCA, any person who is a party to the local appeal may appeal to the TRB by submitting an application to the office of the TRB within 21 calendar days of receipt of the decision of the BFPCA. Failure to submit an application for appeal within the time limit established by this section shall constitute acceptance of the enforcing agency's decision.

F-105.9.1. Information to be submitted. Copies of the decision of the enforcing agency and the resolution of the BFPCA which is being appealed shall be submitted with the application for appeal. Upon request by the office of the TRB, the enforcing agency shall submit a copy of all pertinent information from the record of the BFPCA.

F-105.10. Decision of TRB. Procedures of the TRB for both appeals from a decision of the State Fire Marshal and from the BFPCA are in accordance with Article 2 (§ 36-108 et seq.) of Chapter 6 of Title 36 of the Code of Virginia. Decisions of the TRB shall be final if no appeal is made therefrom and the enforcing agency or State Fire Marshal shall take action accordingly.

SECTION F-106.0. UNSAFE CONDITIONS.

F-106.1. General. The fire official shall order the following dangerous or hazardous conditions or materials to be removed or remedied in accordance with the SFPC:

1. Dangerous conditions which are liable to cause or contribute to the spread of fire in or on said premises, building or structure or endanger the occupants thereof.
2. Conditions which would interfere with the efficiency and use of any fire protection equipment.
3. Obstructions to or on fire escapes, stairs, passageways, doors or windows, liable to interfere with the egress of occupants or the operation of the fire department in case of fire.
4. Accumulations of dust or waste material in air conditioning or ventilating systems or grease in

Final Regulations

kitchen or other exhaust ducts.

5. Accumulations of grease on kitchen cooking equipment, or oil, grease or dirt upon, under or around any mechanical equipment.

6. Accumulations of rubbish, waste, paper, boxes, shavings, or other combustible materials, or excessive storage of any combustible material.

7. Hazardous conditions arising from defective or improperly used or installed electrical wiring, equipment or appliances.

8. Hazardous conditions arising from defective or improperly used or installed equipment for handling or using combustible, explosive or otherwise hazardous materials.

9. Dangerous or unlawful amounts of combustible, explosive or otherwise hazardous materials.

10. All equipment, materials, processes or operations which are in violation of the provisions and intent of this code.

F-106.2. Maintenance. The owner shall be responsible for the safe and proper maintenance of any building, structure, premises or lot. In all new and existing buildings and structures, the fire protection equipment, means of egress, alarms, devices and safeguards required by the USBC shall be maintained in a safe and proper operating condition.

Note: Also see Sections F-504.4 and F-504.4.1 of this code for further information.

F-106.3. Occupant responsibility. If an occupant of a building creates conditions in violation of this code, by virtue of storage, handling and use of substances, materials, devices and appliances, the occupant shall be held responsible for the abatement of said hazardous conditions.

F-106.4. Unsafe buildings. All buildings and structures that are or shall hereafter become unsafe or deficient in adequate exit facilities or which constitute a fire hazard, or are otherwise dangerous to human life or the public welfare, or by reason of illegal or improper use, occupancy or maintenance or which have sustained structural damage by reason of fire, explosion, or natural disaster shall be deemed unsafe buildings or structures. A vacant building, or portion of a building, unguarded or open at door or window shall be deemed a fire hazard and unsafe within the meaning of this code. Unsafe buildings shall be reported to the building or maintenance code official who shall take appropriate action under the provisions of the USBC, Volume I - New Construction Code or Volume II - Building Maintenance Code, to secure abatement by repair and rehabilitation or by demolition.

F-106.5. Evacuation. When, in the opinion of the fire official, there is actual and potential danger to the occupants or those in the proximity of any building, structure or premises because of unsafe structural conditions or inadequacy of any means of egress, the presence of explosives, explosive fumes or vapors, or the presence of toxic fumes, gases or materials, the fire official may order the immediate evacuation of the building, structure or premises. All notified occupants shall immediately leave the building, structure or premises, and no person shall enter until authorized to do so by the fire official.

F-106.6. Unlawful continuance. It is deemed a violation of the SFPC for any person to refuse to leave, interfere with the evacuation of the other occupants or continue any operation after having been given an evacuation order except such work as that person is directed to perform to remove a violation or unsafe condition.

F-106.7. Notice of violation. Whenever the fire official observes a violation of this code or ordinance under the fire official's jurisdiction, the fire official shall prepare a written notice of the violation describing the condition deemed unsafe, citing the applicable code section and specifying time limits for the required repairs or improvements to be made to render the building, structure or premises safe and secure. The written notice of violation of this code shall be served upon the owner, a duly authorized agent or upon the occupant or other person responsible for the conditions under violation. Such notice of violation shall be served either by delivering a copy of same to such persons by mail to the last known post office address, by delivering it in person, by delivering it to and leaving it in the possession of any person in charge of the premises, or, in case such person is not found upon the premises, by affixing a copy thereof in a conspicuous place at the entrance door or avenue of access; such procedure shall be deemed the equivalent of personal notice.

F-106.8. Failure to correct violations. If the notice of violation is not complied with in the time specified by the fire official, the fire official shall request the legal counsel of the jurisdiction to institute the appropriate legal proceedings to restrain, correct or abate any notice of violation which is not complied with in the specified time or require removal or termination of the unlawful use of the building or structure. The local law enforcement agency of the jurisdiction shall be requested by the fire official to make arrests for any offense against this code or orders of the fire official affecting the immediate safety of the public when the fire official is not certified in accordance with § 27-34.2 of the Code of Virginia.

F-106.9. Issuing summons for violation. If certified in accordance with § 27-34.2 of the Code of Virginia, the fire official may issue a summons in lieu of the notice of violation.

F-106.10. Penalty for violation. Violations are a Class 1

misdemeanor in accordance with § 27-100 of the Code of Virginia. Each day that a violation continues, after a service of notice as provided for in this code, shall be deemed a separate offense.

F-106.11. Abatement of violation. Conviction of a violation of the SFPC shall not preclude the institution of appropriate legal action to require correction or abatement of the violation or to prevent other violations or recurring violations of the SFPC relating to use of the building or premises.

ADDENDUM 1. AMENDMENTS TO THE BOCA NATIONAL FIRE PREVENTION CODE/1993 EDITION.

As provided in Section F-101.3 of the SFPC, the amendments noted in this addendum shall be made to the BOCA National Fire Prevention Code/1993 Edition for use as part of the SFPC.

CHAPTER 1. ADMINISTRATION.

Chapter 1, Administration, is deleted in its entirety and replaced with Chapter 1 of the SFPC.

CHAPTER 2. DEFINITIONS.

A. Change Section F-201.3 to read:

F-201.3. Terms defined in the other codes. Where terms are not defined in this code and are defined in the USBC, they shall have the meanings defined by the USBC.

B. Change the following definitions in Section F-202.0, General Definitions, to read:

"Blasting agent" means any explosive material that has been tested and approved in accordance with the provisions of DOT 49 CFR which includes that the finished product, as mixed for use and shipment, cannot be detonated by a No. 8 test blasting cap when unconfined.

"Building code official" means the designated authority charged with the administration and enforcement of the USBC, Volume I - New Construction Code.

"Code official" means the designated authority charged with the administration and enforcement of the USBC, Volume II - Building Maintenance Code.

Note: When "code official" appears in the BOCA National Fire Prevention Code, it shall mean "fire official."

"Explosive" means any chemical compound, mixture or device, the primary or common purpose of which is to function by explosion. The term "explosive" includes all materials classified as Class A, Class B, or Class C

explosives by DOT regulations and includes, but is not limited to, dynamite, black powder, pellet powders, smokeless powder, initiating explosives, blasting caps, electric blasting caps, safety fuse, fuse igniters, fuse lighters, squibs, cordeau detonate fuse, instantaneous fuse, igniter cord and igniters.

"Fireworks" means any item known as firecracker, torpedo, skyrocket, or other substance or thing, of whatever form or construction, that contains any explosive or inflammable compound or substance, and is intended, or commonly known, as fireworks and which explodes, rises into the air or travels laterally, or fires projectiles into the air. The term "fireworks" does not include auto flares, caps for pistols, pinwheels, sparklers, fountains or Pharaoh's Serpents provided, however, these permissible items may only be used, ignited or exploded on private property with the consent of the owner of such property.

"Structure" means an assembly of materials forming a construction for use including stadiums, gospel and circus tents, reviewing stands, platforms, stagings, observation towers, radio towers, water tanks, trestles, piers, wharves, swimming pools, amusement devices, storage bins, and other structures of this general nature. The word structure shall be construed as though followed by the words "or part or parts thereof" unless the context clearly requires a different meaning.

C. Add these new definitions to Section F-202.0, General Definitions:

"Agricultural blasting" means any blasting operation which is conducted on no less than five acres of real estate devoted to agricultural or horticultural use as defined in § 58.1-3230 of the Code of Virginia.

"Artificial barricade" means an artificial mound or revetted wall of earth of a minimum thickness of three feet.

"Barricaded" means the effective screening of a building containing explosive materials from the magazine or other building, railway, or highway by a natural or an artificial barrier. A straight line from the top of any sidewall of the building containing explosive materials to the eave line of any magazine or other building or to a point 12 feet above the center of a railway or highway shall pass through such barrier.

"Blaster" or "shot firer" means that qualified person in charge of, and responsible for, the loading and firing of an explosive or blasting agent.

"Building Code" means the building code in effect at the time of construction.

"Detonator" means any device containing any initiating or primary explosive that is used for initiating detonation. A detonator may not contain more than 10 grams of total explosives by weight, excluding ignition or delay charges.

Final Regulations

The term includes, but is not limited to, electric blasting caps of instantaneous and delay types, blasting caps for use with safety fuses, detonating cord delay connectors, and nonelectric instantaneous and delay blasting caps which use detonating cord, shock tube, or any other replacement for electric leg wires. All types of detonators in strengths through No. 8 cap should be rated at 1 1/2 lbs. of explosives per 1,000 caps. For strengths higher than No. 8 cap, consult the manufacturer.

"Explosive materials" means explosives, blasting agents and detonators.

"Fire official" means the designated authority charged with the administration and enforcement of the SFPC.

"Highway" means any public street, public alley, or public road. "Public Highways Class A to D" are highways with average traffic volume of 3,000 or less vehicles per day as specified in "American Civil Engineering Practice" (Abbett, Vol. 1, Table 46, Sec. 3-74, 1956 Edition, John Wiley and Sons).

"Inhabited building" means a building regularly occupied in whole or part as a habitation for human beings, or any church, schoolhouse, railroad station, store, or other structure where people are accustomed to assemble, except any building or structure occupied in connection with the manufacture, transportation, storage or use of explosive materials.

"Magazine" means any building, structure, or container, other than an explosives manufacturing building, approved for the storage of explosive materials.

"Natural barricade" means natural features of the ground, such as hills, or timber of sufficient density that the surrounding exposures which require protection cannot be seen from the magazine when the trees are bare of leaves.

"Peak particle velocity" means the maximum component of the three mutually perpendicular components of motion at a given point.

"Propellant-actuated power device" means any tool or special mechanized device or gas generator system which is actuated by a propellant or which releases and directs work through a propellant charge. (See special industrial explosive device.)

"Railway" means any steam, electric, or other railroad or railway which carries passengers for hire.

"Semitrailer" means every vehicle of the trailer type so designed and used in conjunction with a motor vehicle that some part of its own weight (and that of its own load) rests upon or is carried by another vehicle.

"Tractor truck" means every motor vehicle designed and used primarily for drawing other vehicles and not so

constructed as to carry a load other than a part of the load and weight of the vehicle attached thereto.

"Transport" or "transportation" means any movement of property by any mode, and any packing, loading, unloading, identification, marking, placarding, or storage incidental thereto.

D. Delete the following definitions from Section F-202.0, General Definitions:

Liquefied petroleum gas (LP-gas or LPG)

Liquefied petroleum gas equipment

CHAPTER 4. OPEN FLAMES OR BURNING.

Change Section F-403.1 to read:

F-403.1. General. Open burning shall be allowed in accordance with the laws and regulations set forth by the State Air Pollution Control Board, the Department of Forestry, and as regulated by the locality.

CHAPTER 5. FIRE PROTECTION SYSTEMS.

Add new Section F-519.0, Smoke Detectors for the Deaf and Hearing-impaired, to read:

SECTION F-519.0. SMOKE DETECTORS FOR THE DEAF AND HEARING-IMPAIRED.

F-519.1. Audible and visual alarms. Audible and visual alarms, meeting the requirements of UL Standard 1638, and installed in accordance with NFPA/ANSI 72G, shall be provided in occupancies housing the hard of hearing, as required by § 36-99.5 of the Code of Virginia; however, all visual alarms shall provide a minimum intensity of 100 candela. Portable alarms meeting these requirements shall be acceptable.

CHAPTER 7. EMERGENCY PLANNING AND PREPAREDNESS.

Add new Section F-707.4, Fire Exit Drills, to read:

F-707.4. Fire exit drills. Fire exit drills shall be conducted annually by building staff personnel or the owner of the building in accordance with the fire safety plan and shall not affect other current occupants.

CHAPTER 18. OIL AND GAS PRODUCTION.

Delete Chapter 18, Oil and Gas Production, as it is covered by the Virginia Gas and Oil Act, Chapter 22.1 (§ 45.1-361.1 et seq.) of Title 45.1 of the Code of Virginia.

CHAPTER 30. EXPLOSIVES, AMMUNITION AND BLASTING AGENTS.

Chapter 30, Explosives, Ammunition and Blasting Agents, is deleted in its entirety and replaced with Chapter 30 of the SFPC, as follows:

SECTION F-3001.0. GENERAL.

F-3001.1. Scope. The equipment, processes and operations involving the manufacture, possession, storage, sale, transportation and use of explosives and blasting agents shall comply with the applicable requirements of this code and the provisions of this article and shall be maintained in accordance with NFPA 495, NFPA 498, and DOT 49CFR listed in Appendix A except as herein specifically exempted or where provisions of this article do not specifically cover conditions and operations, and with the Institute of Makers of Explosives (IME) Safety Library Publications, with Regulations Governing the Transportation of Hazardous Materials as promulgated by the Virginia Waste Management Board, and with the Virginia Motor Carrier Regulations.

F-3001.2. Exceptions. Nothing in this article shall be construed as applying to the following explosive uses:

1. The Armed Forces of the United States or of a state.
2. Explosives in forms prescribed by the official United States Pharmacopoeia.
3. The sale or use of fireworks which are regulated by Chapter 31.
4. Laboratories engaged in testing explosive materials.
5. The possession, storage and use of not more than five pounds (2.27 kg) of smokeless powder, black powder, and 1000 small arms primers for hand loading of small arms ammunition for personal use.
6. The manufacture, possession, storage and use of not more than five pounds (2.27 kg) of explosives or blasting agents in educational, governmental or industrial laboratories for instructional or research purposes when under the direct supervision of experienced, competent persons.
7. The transportation and use of explosives or blasting agents by any federal agency, the Virginia Department of State Police, or fire and law-enforcement officials acting in their official capacity in the discharge of their duties; nor to the storage, handling, or use of explosives or blasting agents pursuant to the provisions of Title 45.1 of the Code of Virginia (Department of Mines, Minerals and Energy).

F-3001.3. Permit required. A permit shall be obtained from the code official for any of the following conditions or operations:

1. To possess, store, or otherwise dispose of explosives or blasting agents.
2. To use explosives or blasting agents:
 - a. A permit shall be issued for each project.
 - b. The permit shall specify the type of blasting and any special conditions. To the extent that blasting will occur within any waters of the Commonwealth or in any of the waters under its jurisdiction, evidence of a valid Marine Resources Commission permit, or "no permit necessary" authorization, will be required.
3. To operate a terminal for handling explosives or blasting agents.
4. To manufacture explosives or blasting agents, providing the following conditions are met:
 - a. Registration with the Department of Housing and Community Development;
 - b. Valid license from the Bureau of Alcohol, Tobacco and Firearms; and
 - c. Valid license to do business in the Commonwealth of Virginia.
5. To sell explosives and blasting agents, providing the following conditions are met:
 - a. Registration with the Department of Housing and Community Development;
 - b. Valid license from the Bureau of Alcohol, Tobacco and Firearms; and
 - c. Valid license to do business in the Commonwealth of Virginia.

Exception: Annual permits for the use of explosives shall be issued to any state regulated public utility.

F-3001.3.1. Prohibited permits. Permits as required above shall not be issued for:

1. Liquid nitroglycerin and nitrate esters.
2. Dynamite (except gelatin dynamite) containing over 60% of liquid explosive ingredient.
3. Leaking, damaged, or defective packages or containers of high explosives.
4. Nitrocellulose in a dry and uncompressed condition

Final Regulations

to be shipped or transported.

5. Fulminate of mercury in a dry condition and fulminate of all other metals in any condition.

Exception. Fulminate of metals which is a component of manufactured articles not otherwise forbidden.

6. Explosive compositions that ignite spontaneously or undergo marked decomposition, rendering the products or their use more hazardous, when subjected for 48 consecutive hours or less to a temperature of 167°F (75°C).

7. New explosives until approved by DOT 49CFR listed in Appendix A, except for permits issued to educational, governmental or industrial laboratories for instructional or research purposes.

8. Explosives forbidden by DOT 49CFR listed in Appendix A.

9. Explosives not packed or marked in accordance with the requirements of DOT 49CFR listed in Appendix A.

10. Explosives containing an ammonium salt and a chlorate.

F-3001.4. Certification required. The use of explosive materials shall be conducted or supervised on-site by blasters certified in accordance with the Virginia Certification Standards (VR 394-01-2). The blaster shall carry proof of certification during the loading or firing of explosive materials.

Exception: Individuals conducting agricultural blasting operations on their own property.

F-3001.4.1. Certification fee. The Department of Housing and Community Development shall charge a \$20 fee to applicants for restricted blaster certification or unrestricted blaster certification.

F-3001.5. Liability insurance. The company or individual applying for a permit to blast, manufacture, or sell explosives shall provide proof of insurance in an amount determined by the fire official but in no case less than \$500,000.

Exception: Liability insurance shall not be required with an agricultural blasting permit when the blast is conducted on the applicant's personal property.

SECTION F-3002.0. GENERAL REQUIREMENTS.

F-3002.1. Storage. The storage of explosives and blasting agents is prohibited within the legal geographic boundaries of any district where such storage is prohibited by the authority having jurisdiction.

Exception: Temporary storage for use in connection with approved blasting operations; provided, however, this prohibition shall not apply to wholesale and retail stocks of small arms ammunition, explosive bolts, explosive rivets or cartridges for explosive actuated power tools in quantities involving less than 500 pounds (227 kg) of explosive material.

F-3002.2. Sale and display. Explosives shall not be sold, given, delivered, or transferred to any person or company not in possession of a valid permit. A person shall not sell or display explosives or blasting agents on highways, sidewalks, public property or in places of public assembly or education.

SECTION F-3003.0. STORAGE OF EXPLOSIVE MATERIALS.

F-3003.1. General. Explosives, including special industrial high explosive materials, shall be stored in magazines which meet the requirements of this article. This shall not be construed as applying to wholesale and retail stocks of small arms ammunition, explosive bolts, explosive rivets or cartridges for explosive-actuated power tools in quantities involving less than 500 pounds (227 kg) of explosive material. Magazines shall be in the custody of a competent person at all times who shall be at least 21 years of age, and who shall be held responsible for compliance with all safety precautions.

F-3003.2. Control in wholesale and retail stores. Explosive materials shall not be stored within wholesale or retail stores. The storage of explosives for wholesale and retail sales shall be in approved outdoor magazines except that not more than 50 pounds of black or smokeless powder may be stored in a Type 4 indoor magazine.

F-3003.3. Magazine clearances. Magazines shall be located away from inhabited buildings, passenger railways, public highways and other magazines in conformance with Table F-3003, except as provided in Section F-3003.2.

F-3003.4. Magazine construction. Magazines shall be constructed and maintained in accordance with IME publication No. 1.

F-3003.4.1. Magazine heat and light. Magazines shall not be provided with artificial heat or light, except that if artificial light is necessary, an approved electric safety flashlight or safety lantern shall be used.

F-3003.5. Safety precautions. Smoking, matches, open flames, spark producing devices and firearms shall be prohibited inside or within 50 feet (15.24m) of magazines. Combustible materials shall not be stored within 50 feet (15.24m) of magazines.

F-3003.5.1. Surrounding terrain. The land surrounding magazines shall be kept clear of brush, dried grass, leaves, trash and debris for a distance of at least 25 feet (7.62 m).

F-3003.5.2. Locking security. Magazines shall be kept locked except when being inspected or when explosives are being placed therein or being removed therefrom.

F-3003.5.3. Magazine housekeeping. Magazines shall be kept clean, dry and free of grit, paper, empty packages or rubbish.

F-3003.5.4. Separation of detonators and explosives. Blasting caps, electric blasting caps, detonating primers and primed cartridges shall not be stored in the same magazine with other explosives.

Table F-3003(3)

TABLE OF DISTANCES FOR STORAGE OF EXPLOSIVES (2)

DISTANCES IN FEET					
QUANTITY OF EXPLOSIVE MATERIALS		Inhabited Buildings		Public Highways Class A to D	
Pounds Over	Pounds Not Over	Barri-caded	Unbarri-caded	Barri-caded	Unbarri-caded
0	5	70	140	30	60
5	10	90	180	35	70
10	20	110	220	45	90
20	30	125	250	50	100
30	40	140	280	55	110
40	50	150	300	60	120
50	75	170	340	70	140
75	100	190	380	75	150
100	125	200	400	80	160
125	150	215	430	85	170
150	200	235	470	95	190
200	250	255	510	105	210
250	300	270	540	110	220
300	400	295	580	120	240
400	500	320	640	130	260
500	600	340	680	135	270
600	700	355	710	145	290
700	800	375	750	150	300
800	900	390	780	155	310
900	1,000	400	800	160	320
1,000	1,200	425	850	165	330
1,200	1,400	450	900	170	340
1,400	1,600	470	940	175	350
1,600	1,800	490	980	180	360
1,800	2,000	505	1,010	185	370
2,000	2,500	545	1,090	190	380
2,500	3,000	580	1,160	195	390
3,000	4,000	635	1,270	210	420
4,000	5,000	685	1,370	225	450
5,000	6,000	730	1,460	235	470
6,000	7,000	770	1,540	245	490
7,000	8,000	800	1,600	250	500
8,000	9,000	835	1,670	255	510
9,000	10,000	865	1,730	260	520
10,000	12,000	875	1,750	270	540
12,000	14,000	885	1,770	275	550
14,000	16,000	900	1,800	280	560
16,000	18,000	940	1,800	285	570
18,000	20,000	975	1,950	290	580
20,000	25,000	1,055	2,000	315	630
25,000	30,000	1,130	2,000	340	680
30,000	35,000	1,205	2,000	360	720
35,000	40,000	1,275	2,000	380	760
40,000	45,000	1,340	2,000	400	800
45,000	50,000	1,400	2,000	420	840
50,000	55,000	1,460	2,000	440	880
55,000	60,000	1,515	2,000	455	910
60,000	65,000	1,565	2,000	470	940
65,000	70,000	1,610	2,000	485	970
70,000	75,000	1,655	2,000	500	1,000

75,000	80,000	1,695	2,000	510	1,020
80,000	85,000	1,730	2,000	520	1,040
85,000	90,000	1,760	2,000	530	1,060
90,000	95,000	1,790	2,000	540	1,080
95,000	100,000	1,815	2,000	545	1,090
100,000	110,000	1,835	2,000	550	1,100
110,000	120,000	1,855	2,000	555	1,110
120,000	130,000	1,875	2,000	560	1,120
130,000	140,000	1,890	2,000	565	1,130
140,000	150,000	1,900	2,000	570	1,140
150,000	160,000	1,935	2,000	580	1,160
160,000	170,000	1,965	2,000	590	1,180
170,000	180,000	1,990	2,000	600	1,200
180,000	190,000	2,010	2,000	605	1,210
190,000	200,000	2,030	2,000	610	1,220
200,000	210,000	2,055	2,000	620	1,240
210,000	230,000	2,100	2,100	635	1,270
230,000	250,000	2,155	2,155	650	1,300
250,000	275,000	2,215	2,215	670	1,340
275,000	300,000	2,275	2,275	690	1,380

QUANTITY OF EXPLOSIVE MATERIALS		Passenger Railways Public Highways with Traffic Volume of more than 3,000 Vehicles/Day		Separation of Magazines (Note (1))	
Pounds Over	Pounds Not Over	Barri-caded	Unbarri-caded	Barri-caded	Unbarri-caded
0	5	51	102	6	12
5	10	64	128	8	16
10	20	81	162	10	20
20	30	93	186	11	22
30	40	103	206	12	24
40	50	110	220	14	28
50	75	127	254	15	30
75	100	139	278	16	32
100	125	150	300	18	36
125	150	159	318	19	38
150	200	175	350	21	42
200	250	189	378	23	46
250	300	201	402	24	48
300	400	221	442	27	54
400	500	238	476	29	58
500	600	253	506	31	62
600	700	266	532	32	64
700	800	278	556	33	66
800	900	289	578	35	70
900	1,000	300	600	36	72
1,000	1,200	318	636	39	78
1,200	1,400	336	672	41	82
1,400	1,600	351	702	43	86
1,600	1,800	366	732	44	90
1,800	2,000	378	756	45	90
2,000	2,500	408	816	49	98
2,500	3,000	432	864	52	104
3,000	4,000	474	948	58	116
4,000	5,000	513	1,026	61	122
5,000	6,000	546	1,092	65	130
6,000	7,000	573	1,146	68	136
7,000	8,000	600	1,200	72	144
8,000	9,000	624	1,248	75	150
9,000	10,000	645	1,290	78	156
10,000	12,000	687	1,374	82	164
12,000	14,000	723	1,446	87	174
14,000	16,000	756	1,512	90	180
16,000	18,000	786	1,572	94	188
18,000	20,000	813	1,626	98	196
20,000	25,000	876	1,752	105	210
25,000	30,000	933	1,866	112	224
30,000	35,000	981	1,962	119	238
35,000	40,000	1,026	2,000	124	248
40,000	45,000	1,068	2,000	129	258
45,000	50,000	1,104	2,000	135	270
50,000	55,000	1,140	2,000	140	280
55,000	60,000	1,173	2,000	145	290
60,000	65,000	1,206	2,000	150	300
65,000	70,000	1,236	2,000	155	310
70,000	75,000	1,263	2,000	160	320
75,000	80,000	1,293	2,000	165	330
80,000	85,000	1,317	2,000	170	340

Final Regulations

85,000	90,000	1,344	2,000	175	350
90,000	95,000	1,368	2,000	180	360
95,000	100,000	1,392	2,000	185	370
100,000	110,000	1,437	2,000	195	390
110,000	120,000	1,479	2,000	205	410
120,000	130,000	1,521	2,000	215	430
130,000	140,000	1,557	2,000	225	450
140,000	150,000	1,593	2,000	235	470
150,000	160,000	1,629	2,000	245	490
160,000	170,000	1,662	2,000	255	510
170,000	180,000	1,695	2,000	265	530
180,000	190,000	1,725	2,000	275	550
190,000	200,000	1,755	2,000	285	570
200,000	210,000	1,782	2,000	295	590
210,000	230,000	1,836	2,000	315	630
230,000	250,000	1,890	2,000	335	670
250,000	275,000	1,950	2,000	360	720
275,000	300,000	2,000	2,000	385	770

Numbers in () refer to explanatory notes

NOTE 1 - When two or more storage magazines are located on the same property, each magazine must comply with the minimum distances specified from inhabited buildings, railways, and highways, and, in addition, they should be separated from each other by not less than the distances shown for "Separation of Magazines," except that the quantity of explosive materials contained in detonator magazines shall govern in regard to the spacing of said detonator magazines from magazines containing other explosive materials. If any two or more magazines are separated from each other by less than the specified "Separation of Magazines" distances, then such two or more magazines, as a group, must be considered as one magazine, and the total quantity of explosive materials stored in such group must be treated as if stored in a single magazine located on the site of any magazine of the group and must comply with the minimum of distances specified from other magazines, inhabited buildings, railways, and highways.

NOTE 2 - Storage in excess of 300,000 lbs. of explosive materials, in one magazine is generally not required for commercial enterprises.

NOTE 3 - This table applies only to the manufacture and permanent storage of commercial explosive materials. It is not applicable to transportation of explosives or any handling or temporary storage necessary or incident thereto. It is not intended to apply to bombs, projectiles, or other heavily encased explosives.

F-3003.5.5. Explosive unpacking. Metal or wooden packages of explosives shall not be unpacked or repacked in a magazine nor within 50 feet (15.24m) of a magazine.

F-3003.5.6. Magazine contents. Magazines shall not be used for the storage of any metal tools or of any commodity except explosives, but this restriction shall not apply to the storage of blasting agents, blasting supplies and oxidizers used in compound blasting agents.

F-3003.6. Unstable explosives. When an explosive has deteriorated to an extent that it is in an unstable or dangerous condition, or if liquid leaks from any explosive, then the person in possession of such explosive shall immediately report that fact to the code official and upon his approval shall proceed to destroy such explosives and clean floors stained with nitroglycerin or other such liquids in accordance with the instructions of the manufacturer. Only qualified, experienced persons shall do the work of

destroying explosives.

Note: Disposal of explosives as "waste" should be in accordance with the Department of Waste Management regulations.

F-3003.7. Magazine warnings. Property upon which Type I magazines and outdoor magazines of Types 2, 4 and 5 are located shall be posted with signs stating "Explosives - Keep Off." The signs shall be located such that the possibility of a bullet shot at the sign and hitting the magazine is minimized.

SECTION F-3004.0. TRANSPORTATION OF EXPLOSIVES.

F-3004.1. General. The transportation of explosive materials shall comply with applicable provisions of the Regulations Governing the Transportation of Hazardous Materials as promulgated by the Virginia Waste Management Board.

F-3004.2. Enforcement. The Department of State Police, together with all law enforcement and peace officers of the Commonwealth who have satisfactorily completed the course in Hazardous Materials Compliance and Enforcement as prescribed by the U.S. Department of Transportation, Research and Special Programs, and Office of Hazardous Materials Transportations, in federal safety regulations and safety inspections procedures pertaining to the transportation of hazardous materials, shall enforce the provisions of this section. Those officers shall annually receive in-service training in current federal safety standards and safety inspection procedures pertaining to the transportation of hazardous materials.

SECTION F-3005.0. STORAGE OF BLASTING AGENTS AND SUPPLIES.

F-3005.1. General. Blasting agents or oxidizers, when stored in conjunction with explosives, shall be stored in the manner set forth in Section F-3003.0 for explosives. The quantity of blasting agents and one half the quantity of oxidizers shall be included when computing the total quantity of explosives for determining distance requirements.

F-3005.2. Storage location. Buildings used for storage of blasting agents separate from explosives shall be located away from inhabited buildings, passenger railways and public highways in accordance with Table F-3003.

F-3005.3. Storage housekeeping. The interior of buildings used for the storage of blasting agents shall be kept clean and free from debris and empty containers. Spilled materials shall be cleaned up promptly and safely removed. Combustible materials, flammable liquids, corrosive acids, chlorates, nitrates other than ammonium nitrate or similar materials shall not be stored in any building containing blasting agents unless separated therefrom by construction having a fire-resistance rating of not less than one hour. The provisions of this section shall

not prohibit the storage of blasting agents together with nonexplosive blasting supplies.

F-3005.4. Trailer storage requirements. Semitrailers or full trailers used for temporarily storing blasting agents shall be located away from inhabited buildings, passenger railways and public highways, in accordance with Table F-3003. Trailers shall be provided with substantial means for locking and trailer doors shall be kept locked except during the time of placement or removal of blasting agents.

F-3005.5. Oxidizers and fuels. Piles of oxidizers and buildings containing oxidizers shall be adequately separated from readily combustible fuels.

F-3005.6. Oxidizer handling. Caked oxidizer, either in bags or in bulk, shall not be loosened by blasting.

SECTION F-3006.0. HANDLING OF EXPLOSIVES.

F-3006.1. Mixing blasting agents. Buildings or other facilities used for mixing blasting agents shall be located away from inhabited buildings, passenger railways and public highways, in accordance with Table F-3003.

F-3006.2. Quantity of mixing agents. Not more than one day's production of blasting agents or the limit determined by Table F-3003, whichever is less, shall be permitted in or near the building or other facility used for mixed blasting agents. Larger quantities shall be stored in separate buildings or magazines.

F-3006.3. Compounding standards. Compounding and mixing of recognized formulations of blasting agents shall be conducted in accordance with NFPA 495 and DOT 49CFR listed in Chapter 44.

F-3006.4. Ignition protection. Smoking or open flames shall not be permitted within 50 feet (15.24m) of any building or facility used for the mixing of blasting agents.

F-3006.4.1. Unpacking tools. Tools used for opening packages of explosives shall be constructed of nonsparking materials.

Exception. Metal slitters may be used for opening paper and fiberboard containers.

F-3006.5. Waste disposal. Empty oxidizer bags shall be disposed of daily by burning in a safe manner (in an open area and at a safe distance from buildings or combustible materials).

F-3006.5.1. Packing material disposal. Empty boxes and paper and fiber packing materials which have previously contained high explosives shall not be used again for any purpose, but shall be destroyed by burning at an approved, isolated location out-of-doors, and any person shall not be closer than 100 feet (30.48 m) during the course of said

burning.

F-3006.6. Control. Explosives shall not be abandoned.

SECTION F-3007.0. BLASTING.

F-3007.1. Time. Blasting operations shall be conducted during daylight hours except when otherwise approved.

F-3007.2. Personnel. The handling and firing of explosives shall be performed by the person certified as a blaster under Section F-3001.4 of this code or by employees under that person's direct on-site supervision who are at least 21 years old.

1. A person shall not handle explosives while under the influence of intoxicants or narcotics.

2. A person shall not smoke or carry matches while handling explosives or while in the vicinity thereof.

3. An open flame light shall not be used in the vicinity of explosives.

F-3007.3. Clearance at site. At the site of blasting operations, Class II magazines shall be located as far away as practicable from neighboring inhabited buildings, railways, highways, and other magazines.

F-3007.4. Notice. Whenever blasting is being conducted within 200 feet of gas, electric, water, fire, alarm, telephone, telegraph or steam utilities, the blaster shall notify the appropriate representatives of such utilities at least 24 hours in advance of blasting, specifying the location and intended time of such blasting. Verbal notice shall be confirmed with written notice. This time limit shall not be waived except in an emergency as determined by the code official.

F-3007.5. Responsibility. Before a blast is fired, the person in charge shall make certain that all surplus explosives are in a safe place, all persons and vehicles are at a safe distance or under sufficient cover, and a warning signal has been sounded.

F-3007.6. Precautions. Due precautions shall be taken to prevent accidental discharge of electric blasting caps from current induced by radio or radar transmitters, lightning, adjacent power lines, dust storms or other sources of extraneous electricity. These precautions shall include:

1. The suspension of all blasting operations and removal of persons from the blasting area during the approach and progress of an electrical storm;

2. The posting of signs warning against the use of mobile radio transmitters on all roads within 350 feet (106.75m) of the blasting operations; and

3. Compliance with NFPA 495 listed in Appendix A

Final Regulations

when blasting within 1-1/2 miles (2.41 km) of broadcast or highpower short wave radio transmitters.

4. Misfires shall be handled as directed by equipment manufacturers with no one entering the blasting site, except the blaster, until the loaded charges have been made to function or have been removed.

F-3007.7. Congested areas. As required by the fire official, when blasting is done in congested areas or in close proximity to a building, structure, railway, highway or any other installation susceptible to damage, the blast shall be covered before firing, with a mat or earth, or both, so that it is capable of preventing rock from being thrown into the air out of the blast area.

F-3007.8. Blast records. A record of each blast shall be kept and retained for at least three years and shall be available for inspection by the fire official. These records shall contain the following minimum data:

1. Name of contractor.
2. Location and time of blast.
3. Name of certified blaster in charge.
4. Type of material blasted.
5. Number of holes bored and spacing.
6. Diameter and depth of holes.
7. Type and amount of explosives.
- * 8. Amount of explosives per delay of eight milliseconds or greater.
9. Method of firing and type of circuit.
10. Direction and distance in feet to nearest dwelling, public building, school, church, commercial or institutional building.
11. Weather conditions.
12. Whether or not mats or other precautions were used.
- * 13. Type of detonators and delay periods.
14. Type and height of stemming.
15. Seismograph records where indicated.

* - Subdivisions 8 and 13 of this section are not applicable to restricted blasters.

SECTION F-3008.0. STANDARDS FOR CONTROL OF AIRBLAST AND GROUND VIBRATION.

F-3008.1. Airblast. This section shall apply to airblast effects as recorded at the location of any private dwelling, public building, school, church, and community or institutional building not owned or leased by the person conducting or contracting for the blasting operation. If requested by a property owner registering a complaint and deemed necessary by the fire official, measurements of three consecutive blasts, using approved instrumentation, shall be made near the structure in question.

F-3008.1.1. Maximum airblast. The maximum airblast at any inhabited building, resulting from blasting operations, shall not exceed 130 decibels peak, or 140 decibels peak at any uninhabited building, when measured by an instrument having a flat frequency response (+3 decibels) over a range of at least six to 200 Hertz.

F-3008.2. Ground vibration. This section shall provide for limiting ground vibrations at structures that are neither owned nor leased by the person conducting or contracting for the blasting operation. Engineered structures may safely withstand higher vibration levels based on an approved engineering study upon which the fire official may then allow higher levels for such engineered structures.

Note: Each Table, F-3008A to F-3008C, has an increasing degree of sophistication and each can be implemented either by the fire official as a result of complaints or by the contractor to determine site specific vibration limits. The criteria in Tables F-3008 A, B, and C and Section F-3008.3 are intended to protect low-rise structures including dwellings.

F-3008.2.1. Blasting without instrumentation. Where no seismograph is used to record vibration effects, the explosive charge weight per delay (eight milliseconds or greater) shall not exceed the limits shown in Table F-3008A. When charge weights per delay on any single delay period exceed 520 lbs., then ground vibration limits for structures shall comply with Tables F-3008B, F-3008C, or Section F-3008.3.

F-3008.2.2. Monitoring with instrumentation. Where a blaster determines that the charge weights per delay given in Table F-3008A are too conservative, he may choose to monitor (at the closest conventional structure) each blast with an approved seismograph and conform to the limits set by Tables F-3008B, F-3008C, or Section F-3008.3.

Note: From this point on, the explosive charge weight per delay may be increased, but the vibration levels detailed in Tables F-3008B, F-3008C, or Section F-3008.3 shall not be exceeded.

Table F-3008 A(a)
CHARGE WEIGHT PER DELAY DEPENDENT ON
DISTANCE

Distance to	Weight of Explosives	Distance to	Weight of Explosives

a Building			per Delay		
Feet over	Feet not over	Pounds	Feet over	Feet not over	Pounds
0	5	1/4	250	260	45
5	10	1/2	260	280	49
10	15	3/4	280	300	55
15	60	Note (b)	300	325	61
60	70	6	325	350	69
70	80	7 1/4	350	375	79
80	90	9	375	400	85
90	100	10 1/2	400	450	98
100	110	12	450	500	115
110	120	13 3/4	500	550	135
120	130	15 1/2	550	600	155
130	140	17 1/2	600	650	175
140	150	19 1/2	650	700	195
150	160	21 1/2	700	750	220
160	170	23 1/4	750	800	240
170	180	25	800	850	263
180	190	28	850	900	288
190	200	30 1/2	900	950	313
200	220	34	950	1000	340
220	240	39	1000	1100	375
240	250	42	1100	1200	435
			1200	1300	493

Note a. Over 60 feet this table is based upon the formula:

$$W = D 1.5/90$$

Note b. One tenth of the pound of explosive per foot of distance to a building.

Table F-3008 B
PEAK PARTICLE VELOCITY DEPENDENT ON
DISTANCE

Distance		Peak Particle Velocity of Any One Component/a/
Feet over	feet not over	Inches per second
0	100	2.00
100	500	1.50
500	1000	1.00
over	1000	0.75

Note a. The instrument's transducer shall be firmly coupled to the ground.

F-3008.3. Response spectra. A relative velocity of 1.5 inches per second or less, within the 4 to 12 Hertz range of natural frequencies for low rise structures, shall be recorded as determined from an approved response spectra.

F-3008.4. Instrumentation. A direct velocity recording seismograph capable of recording the continuous wave form of the three mutually perpendicular components of motion, in terms of particle velocity, shall be used and shall have the following characteristics:

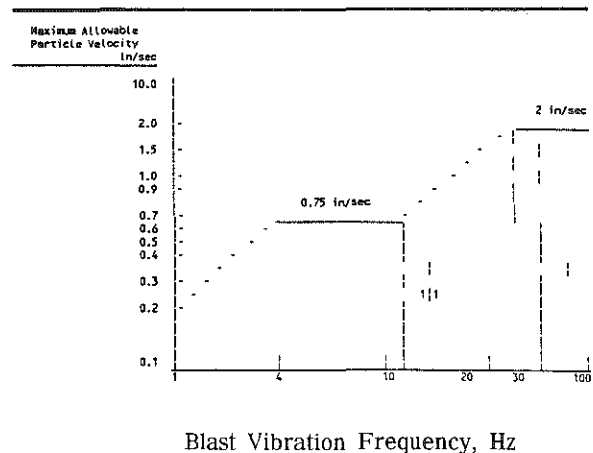
1. Each seismograph shall have a frequency response from two to 150 Hertz or greater and a velocity range from 0.0 to 2.0 inches per second or greater, and shall

adhere to design criteria for portable seismographs outlined in U.S. Bureau of Mines RI 5708, RI 6487, and RI 8506.

2. All field seismographs shall be capable of internal dynamic calibration and shall be calibrated according to the manufacturers' specifications at least once per year.

3. All seismographs shall be operated by competent people trained in their correct use and seismograph records shall be analyzed and interpreted as may be required by the fire official.

TABLE F-3008 C
PARTICLE VELOCITY CRITERIA DEPENDENT ON
FREQUENCY CONTENT



Note: This criteria is derived from the U.S. Bureau of Mines - RI 8507 (Appendix B) and provides a continuously variable particle velocity criteria dependent on the frequency content of the ground motion. The method of analysis shall be approved by the Fire Official and shall provide an analysis showing all the frequencies present over the 1-50 Hertz range.

F-3008.5. Seismographic records. A record of each blast shall be kept. All records, including seismograph reports, shall be retained for at least three years and shall be available for inspection. Records shall include the following information:

1. Name of company or contractor.
2. Location, date and time of blast.
3. Name, signature and social security number of blaster in charge.
4. Type of material blasted.

Final Regulations

5. Number of holes bored and spacing.
6. Diameter and depth of holes.
7. Type of explosives used.
8. Total amount of explosives used.
9. Maximum amount of explosives per delay period of eight milliseconds or greater.
10. Method of firing and type of circuit.
11. Direction and distance in feet to nearest dwelling house, public building, school, church, commercial or institutional building neither owned nor leased by the person conducting the blasting.
12. Weather conditions including such factors as wind direction, etc.
13. Height or length of stemming.
14. Type of protection, such as mats, that were used to prevent flyrock.
15. Type of detonators used and delay period used.
16. The exact location of the seismograph and the distance of the seismograph from the blast.
17. Seismograph readings, where required, shall contain:
 - a. Name and signature of person operating the seismograph.
 - b. Name of person analyzing the seismograph records.
 - c. Seismograph reading.
18. The maximum number of holes per delay period of eight milliseconds or greater.

SECTION F-3009.0.

THEFT, DISAPPEARANCE, INJURIES OR PROPERTY DAMAGE.

F-3009.1. Reports of stolen explosives. Pursuant to § 27-97.1 of the Code of Virginia, any person holding a permit for the manufacture, storage, handling, use or sale of explosives issued in accordance with this code shall report to the State Police and the local law-enforcement agency any theft or other disappearance of any explosives or blasting devices from their inventory. In addition, notification shall be made to the fire official having issued the permit.

F-3009.2. Reports of injuries or property damage. The fire official shall be immediately notified of injuries to any

person or damage to any property as a result of the functioning of the explosive.

F-3009.3. Relationship of local fire official and State Fire Marshal. The local fire official shall relay information obtained from reports required by Sections F-3009.1 and F-3009.2 to the Office of the State Fire Marshal.

CHAPTER 31. FIREWORKS.

A. Change Section F-3101.1 to read:

F-3101.1. Scope. The manufacture, transportation, display, sale or discharge of fireworks shall comply with the requirements of Chapter 11 of Title 59 of the Code of Virginia.

B. Delete Section F-3102.0, Definitions.

C. Delete Section F-3103.1, General.

D. Delete Section F-3103.2, Violations.

E. Delete Section F-3103.3, Display, and renumber subsection F-3103.3.1 to F-3103.3.

F. Delete Section F-3103.5, Sale of fireworks.

CHAPTER 32. FLAMMABLE AND COMBUSTIBLE LIQUIDS.

[A.] Change Section F-3205.5 to read as follows:

F-3205.5. Fuel dispensing outside the building. Fuel dispensers outside the building shall be located a minimum of 10 feet (3048 mm) from the lot line and five feet (1524 mm) from any building opening. Where fuel is dispensed to motor vehicles, the motor vehicle being served shall be located on the premises.

[B. Change Section F-3205.8, Attendant, to read as follows:

F-3205.8. Attendant. Each service station open to the public shall have an attendant on duty who is familiar with the location of pump controls and operation of safety equipment.

Exception: Service stations in compliance with National Fire Protection Association (NFPA) 30A Standard listed in Chapter 44 shall not be required to have an attendant on duty.

Note: NFPA 30A Standard may be obtained from:

*National Fire Protection Association
Batterymarch Park
Quincy, MA 02269]*

CHAPTER 36.

LIQUEFIED PETROLEUM GASES.

Change Section F-3601.1 as follows and delete the remainder of Chapter 36:

F-3601.1. Scope. The equipment, processes and operation for storage, handling, transporting by tank truck or tank trailer, and utilizing LP gases for fuel purposes, and for odorization of LP gases shall comply with the Virginia Liquefied Petroleum Gas Regulations in effect at the time of construction as provided for in Chapter 7 of Title 27 of the Code of Virginia.

VA.R. Doc. No. R94-1082; Filed June 22, 1994, 11:45 a.m.

* * * * *

REGISTRAR'S NOTICE: The following regulations are exempted from the provisions of the Administrative Process Act (§ 9-6.14:1 et seq. of the Code of Virginia) in accordance with § 9-6.14:4.1 B 4 of the Code of Virginia, which excludes agency action relating to grants of state or federal funds or property.

Title of Regulation: VR 394-01-103. Multifamily Loan Program.

Statutory Authority: §§ 36-137 and 36-141 et seq. of the Code of Virginia.

Effective Date: August 10, 1994.

Summary:

These guidelines establish the administrative framework for the Virginia Housing Partnership's Multifamily Loan Program as administered by the Department of Housing and Community Development. The guidelines include the scoring criteria for selecting projects and the terms and conditions under which loans and grants will be available. They amend the guidelines published by the department on September 9, 1991. The guidelines have been changed to (i) establish minimum rehabilitation requirements, (ii) allow the department to distribute available funds to more than one application round, (iii) specify most likely interest rates, (iv) authorize the department to charge a commitment fee, and (v) revise the distribution of scoring points.

Summary of Public Comment and Agency Response: No public comment was received by the promulgating agency.

Agency Contact: Copies of the regulation may be obtained from George W. Rickman, Jr., Department of Housing and Community Development, 501 North 2nd Street, Jackson Center, Richmond, VA 23219-1321, telephone (804) 371-7170. There may be a charge for copies.

VR 394-01-103. Multifamily Loan Program.

PART I. DEFINITIONS.

§ 1.1. Definitions.

The following words and terms, when used in these guidelines shall have the following meaning unless the context clearly indicates otherwise:

"*Acquisition*" means the purchase of real property.

"*Applicant*" means an individual, incorporated nonprofit, for-profit, or government entity, that makes application for funds under the Virginia Housing Partnership Fund.

"*Application*" is the written request, as published by the Department of Housing and Community Development, for a loan or grant funding under the Virginia Housing Partnership Fund.

"*Application date*" means the date on which a completed application is received by DHCD.

"*Appraised value*" means the monetary worth of property as determined by an appraiser.

"*Area median income*" means the median income established by HUD for various areas.

"*Assessed value*" is a monetary worth of the facility/property as determined by the real estate assessment office of the local government where the same is located for tax purposes. (The applicable assessed value shall be that value in effect as of the date of the application.)

"*Borrower*" means the individual, for-profit, nonprofit or government entity that has been approved for funding under the Virginia Housing Partnership Fund.

"*DHCD*" means the Department of Housing and Community Development.

"*Energy grant*" means a grant, available as a result of federal energy litigation, which may be awarded to pay for certain energy-related improvements.

"*Energy-related improvements*" means physical improvements to structures which are being rehabilitated which contribute to fuel cost savings and overall less energy consumption, and which have been so designated by this department.

"*Fund*" means the Housing Partnership Revolving Loan Fund.

"*General improvements*" means additions, alterations, renovations, or repairs made for the purpose of making housing more habitable and more desirable to live in. These improvements must be permanent. Improvements shall not include materials, fixtures, or landscapes of a

Final Regulations

type or quality which exceed that customarily used in the locality for properties of the same general type as the property to be improved.

"Grant" means funds provided to program recipients under the Virginia Housing Partnership Fund which, assuming satisfactory compliance with all terms and conditions, will not require repayment.

"Grant agreement" means the contract between DHCD and the project sponsor containing the terms and conditions provided for within the program.

"Gross income" is the total income from all sources and before taxes or withholdings of all residents residing in a housing unit, age 18 or older.

"HQS" means the Housing and Urban Development Section 8 Housing Quality Standards.

"Household" means all persons related or unrelated living together as one economic unit.

"HUD" means the Department of Housing and Urban Development.

"Individual" is a single person who submits an [*applicant application*] pursuant to the program guidelines.

"Loan" means money lent with interest for a specified period of time.

"Loan note" means the agreement between DHCD and the project sponsor pertaining to the terms and conditions governing funding by the Virginia Housing Partnership Fund, including repayment provisions.

"Lower-income" means 80% of median income for the service area as established by the U.S. Department of Housing and Urban Development also referred to as LMI.

"Multifamily" means property with two or more complete dwelling units.

"Oil overcharge expenditure trust fund" are the United States Department of Energy moneys awarded to the Commonwealth for specific purposes to resolve alleged pricing violations in effect between 1973 and 1981 by crude oil providers; also referred to as Oil Overcharge Funds.

"Program" means the plan for funding under the Multifamily Loan Program.

"Project sponsor" means an individual, family, nonprofit, for-profit or incorporated organization that enters into a contract/agreement with DHCD to undertake activities in accordance with the program guidelines.

"Rehabilitation" means significant physical improvements/repairs to a facility which will secure it

structurally, correct building, health or fire safety codes related defects, increase energy efficiency and assure safe and sanitary operation.

"Set-aside" means funds reserved for a specified period, by the department, to finance a multifamily project.

"Site control" means the possession of or authorization to use real property by means of ownership, lease or option.

"State" or *"Commonwealth"* means the Virginia Department of Housing and Community Development, also referred to as DHCD and the department.

"VHDA" means Virginia Housing Development Authority.

"VHPF" means the Virginia Housing Partnership Fund.

PART II. ELIGIBILITY.

§ 2.1. Eligible applicants.

1. Nonprofit organizations;
2. Governmental entities, including local redevelopment and housing authorities;
3. Private, for-profit organizations; or
4. Individual investors.

§ 2.2. Eligible activities.

A. Loan funds may be used to rehabilitate existing multifamily housing, to acquire and rehabilitate existing multifamily housing, to construct new multifamily housing, or to acquire existing low-income housing which can be proven to be at risk of falling out of the LMI housing stock.

A: B. In rehabilitation projects, property must be brought up to HUD Section 8 Housing Quality Standards (HQS).

B: C. Energy improvements which exceed HUD Section 8 Housing Quality Standards are encouraged. Eligible energy improvements are authorized and published by the state.

C: D. Funds may also be used for other General Improvements.

D: E. Luxury improvements are prohibited.

E: F. Upon completion of a new construction project, the property must meet the Uniform Statewide Building Code.

F: G. Reasonable fees and expenses incurred in the process of obtaining the loan may be financed in the loan, including credit report fee, appraisals, surveys, engineering

and architectural fees, legal fees, recording costs, and commitment fees.

G. H. DHCD will accept requests for waivers to one or more of the program requirements on a case-by-case basis. In granting such a waiver, DHCD will look at the merits of each case relative to need, benefits, and intent of the program.

H. I. Construction financing will be available only when the sponsor can demonstrate that alternative financing is not available. Construction financing will only be disbursed in order of lien priority.

I. J. Refinancing of existing debt may be available if necessary for project feasibility.

§ 2.3. Eligible projects.

A. All projects must contain two or more units.

B. To qualify as a rehabilitation project, the following must be met: (i) 75% of the exterior walls must be retained, (ii) on average at least \$5,000 of construction costs must be expended per unit, and (iii) at least one major building system must be replaced or significantly repaired.

C. Conversion of commercial or institutional properties to residential use is permitted as long as the property is in conformance with zoning and other local requirements for multifamily use upon completion of the project.

D. No improvements to non-LMI units will be eligible for Multifamily Loan Program funds.

E. Existing properties must have existing HUD Section 8 Housing Quality Standards (HQS) violations or incipient violations prior to rehabilitation, unless otherwise approved by the state.

PART III. OCCUPANCY AND RENT REQUIREMENTS.

§ 3.1. Occupancy requirements.

The target population for occupancy of multifamily housing funded with Multifamily Loans is low and moderate income persons and families. The percentage of units which must be occupied by low and moderate income persons varies based upon the income level served by the project. A minimum threshold has been set as follows, and may be exceeded at the option of the project sponsor. All occupancy requirements must be met for the full term of the loan.

Project sponsors must select one of three occupancy options at the time of application and must comply with it for the term of the loan:

OPTION 1:

A minimum of 20% of the units must be reserved for households with incomes at 50% or less of the area median income as established by HUD.

OPTION 2:

A minimum of 40% of the units must be reserved for households with incomes at 60% or less of the area median income as established by HUD.

OPTION 3:

A minimum of 80% of the units must be reserved for households with incomes at 80% or less of the area median income as established by HUD.

§ 3.2. Rent requirements.

The owner must inform the Commonwealth of any changes in rents charged within the project. Annual rent increases may not exceed the percentage increase in the area median income as published annually by HUD. State approval is required in advance if proposed rents on low- and moderate-income units exceed the percentage increase in area median income. Decreases in the area median income, as determined by HUD, will not require a reduction in project rents.

PART IV. DISTRIBUTION OF FUNDS.

§ 4.1. Distribution of funds; generally.

Funds will be distributed annually through a competitive process. Any funds remaining after the competition will be made available on a competitive basis among those projects which have corrected application deficiencies and are judged ready for underwriting. The department may establish one or more application rounds per year and determine the distribution of available funds between the rounds. Pools and subpools may be established for each round which divide available funds and project applications according to geographic area, type of project, and/or other characteristics as the department believes meets the goals of the program.

A. § 4.2. Maximum funding for project sponsor.

There will be a limitation of \$1 million per project in any single funding cycle. Funds will only be available for lower-income housing units. Furthermore, the partnership will not fund more than 75% of the total development cost. Energy grant funds will only be available for rehabilitation projects and will be limited to \$4,000 per low-income unit.

Energy grant funds will only be available for rehabilitation projects and will be limited to 15% of the total improvement cost of low-income units. Any applicant may submit more than one project; Any applicant may submit more than one project; however, no single project

Final Regulations

sponsor or closely related sponsoring entities may receive funding which totals more than 20% of the available funds for this program in any fiscal year.

B. § 4.3. [~~Fund Funds~~] set-aside for project sponsor.

1. A. Loan and Energy Grant funds will be made available initially on a competitive basis to eligible project sponsors in accordance with the selection/evaluation criteria established in § 7.1 of these guidelines.

2. B. Upon selection, a Loan or Energy Grant Set-Aside will be made to a project sponsor for up to six months. This will allow time to complete project development activities including finalizing other financing and assistance from other local, state or federal housing programs. Extensions may be granted by DHCD, if appropriate.

3. C. A project sponsor's Set-Aside will be divided into two portions: The unrestricted portion will be provided from the state's General Fund Appropriation and may be used for any eligible improvements, as defined in § 2.2. The eligible energy-related portion will be provided from the state's Oil Overcharge Expenditure Trust Fund and may be used only for eligible energy-related improvements, as defined by DHCD.

PART V. LOAN TERMS AND CONDITIONS.

§ 5.1. Loan terms and conditions.

A. § 5.1. Interest rate.

The average interest rate for loans funded from the General Fund Appropriation is 6.0%. Loans may be made at rates as low as 2.0%. Loans may be made at rates averaging 5.0%, but as low as 2.0% and as high as 8.0%, dependent upon the needs of the project. Final determination of the interest rate will be made by VHDA in the underwriting, depending upon the needs and characteristics of the project. Final determination of the interest rate will be made by the department upon receipt of the underwriting report from VHDA.

Eligible energy improvements which are funded from the Oil Overcharge Expenditure Funds will be provided as a grant.

The department reserves the right to charge a commitment fee, not to exceed 2.0% of the principal amount.

B. § 5.2. Term.

The maximum term for loans will be 15 years, except for participation loans with VHDA which will be 30 years. Longer amortization schedules, not to exceed 30 years, may be considered. All repayments are due in 15 years. Grants are subject to repayment if the project sponsor violates program requirements. [Repayment must be made

in full if such violation occurs within two years from the date the grant is closed. Beginning in the third year,] This repayment obligation is reduced at the rate of 25% per year. Notwithstanding the above, as of July 1, 1998, any remaining grant repayment obligations shall be forgiven.

C. § 5.3. Deferrals.

Deferrals of principal payments or of both principal and interest payments may be allowed for up to five years. The Commonwealth shall determine the feasibility of any payment deferral or amortization deferral for each project. The use of such options may require higher interest rates to be paid during the loan repayment period.

D. § 5.4. Instruments for loan security ; general requirements; lien requirements .

1. General requirements. A. The borrower(s) must be the sole owner(s) of the property. A title opinion and title insurance will be required for all loans unless otherwise approved by the state. Hazard insurance is required in such terms and amounts as specified by the Commonwealth.

2. Lien requirements. B. A lien shall be recorded on every property for which a program loan is made. The lien shall be divided into the amount securing the General Fund portion of the loan and the amount securing Oil Overcharge funds. The General Fund portion shall remain in effect for the term of the loan. [Starting the third year,] The Oil Overcharge portion of the lien will be forgiven at a rate of 25% per year, provided program requirements continue to be met. In no event shall the Oil Overcharge lien extend beyond July 1, 1998.

The Commonwealth will accept a subordinate position only to an existing mortgage or where the primary financing is being provided from another source.

E. § 5.5. Loan underwriting criteria ; loan-to-value ratio .

A. Specific underwriting criteria which are applicable to these loans have been established by the Commonwealth. These will include an evaluation of the site, project design and amenities, the market for the project, the experience and financial capacity of sponsors and contractors, architectural and engineering studies, the value of the project, financial risks and other considerations. Each project will be evaluated to assess the potential cash flow available to pay debt service and operating expenses.

Loan-to-value ratio.

B. The loan-to-value ratio shall be based on the appraised value of the structure after completion. A loan-to-value ratio of up to 100% will be considered for loans/grants to nonprofit housing sponsors and up to 90% for other sponsors. The Commonwealth may permit the ratio to exceed 100% under special circumstances to be

considered on a case-by-case basis. The loan/grant amount may not exceed 100% of cost, as determined by the fund.

F. § 5.6. Loan servicing.

VHDA will close the loans, conduct construction inspections when applicable, disburse proceeds, service the loans and provide ongoing management oversight.

G. § 5.7. Sale or transfer restrictions.

Loans made under this program will be assumable as long as the property use, income requirements, rent requirements, housing conditions and other program requirements are maintained for the term of the loan. An annual review will be made to assure project compliance. Approval by the Commonwealth will be required for loans to be assumed.

H. § 5.8. Prepayment of loan.

Prepayment of loans under this program will be prohibited.

PART VI. DISPLACEMENT.

§ 6.1. Displacement.

Projects which result in no or minimal displacement are encouraged. Where displacement is unavoidable, a sponsor's willingness and ability to assist current tenants in finding alternative housing both temporarily during rehabilitation and permanently will be considered in the selection of projects. A project which causes no displacement will be given higher ranking. Other projects will be required to include a description of the assistance (including counseling and financial reimbursement) to be given to displaced persons. Projects providing a greater level of assistance will be given a higher ranking score.

PART VII. EVALUATION CRITERIA.

§ 7.1. Evaluation criteria.

Project sponsors are selected to receive program funding through a competitive funding cycle. Criteria for evaluating and ranking projects are described below:

1. Public purpose. Projects which serve the lowest income groups (see § 3.1) will receive higher ranking priorities. Projects which serve a higher proportion of lower income households than the minimum required shall be given a higher score. Projects which charge less than the maximum allowable rents will be given a higher score. ~~Sponsors will be required to explain how their project serves public purpose. Points will also be awarded for such categories as amenities and unit size, energy efficiency, historic certification, local need, local government financial support, displacement~~

plan, and leasing preferences.

2. Project feasibility. Projects will be evaluated based upon the appropriateness of the project to the population to be served, achievable time frame for accomplishments, realistic project budget, and reasonable operating budget.

3. Project readiness. Projects will be evaluated on the strength of site control, zoning and ~~displacement issues~~, completeness of plans and specifications, and ~~commitment of financial sources to meet project costs~~, utilities, project time schedule, local support, and administrative capacity.

4. Leveraging /efficiency/. Projects will be evaluated based on a comparison of the Multifamily Loan Program request to the total development cost for the project. *Those projects requesting the lowest relative amount will receive the most points. Projects showing the lowest cost per unit will also qualify for more points. Scoring will also include loan request per unit and per bedroom.*

[5. Administrative experience. Projects will be evaluated based upon the qualification and experience of the development team, the contractor, and property management agent.]

The department may establish application parameters which specify limits on allowable costs and other assumptions with which projects must comply at the time of application. DHCD may also establish scoring thresholds in total and per individual scoring section, and projects must equal or exceed such thresholds in order to qualify for funding. The department, at its sole discretion, may reduce the scoring thresholds in order to fully reserve available resources.

PART VIII. HOME INVESTMENT PARTNERSHIPS ACT.

§ 8.1. Distribution of funds; maximum funding for project sponsor.

A. *The Commonwealth is a participating jurisdiction for the allocation of HOME funds as defined by Title II of the National Affordable Housing Act of 1990. A portion of the funds available under this program may be allocated to multifamily projects which meet the eligibility requirements.*

B. *No single sponsor, or closely related entities, may qualify for a single reservation of funds or combined reservations from multiple projects in excess of 40% of the HOME funds available to multifamily projects. Those projects receiving HOME funds from a local participating jurisdiction are not eligible to apply for HOME funds administered by the state.*

§ 8.2. Occupancy requirements.

Final Regulations

A minimum of 20% of the HOME assisted rental units must be reserved for households with incomes at 50% or less of the area median income as established by HUD. The remaining units must be reserved for households with incomes at 60% or less of the area median income.

§ 8.3. Rent requirements.

At least 20% of the HOME assisted units must have rents not greater than 30% of the gross income (minus tenant paid utilities) of a family whose income equals 50% of the area median income. Remaining HOME assisted units must have rents at or below the lesser of: (i) the existing Section 8 Fair Market Rent, or (ii) 30% of the gross income of a family whose income equals 65% of the area median income.

§ 8.4. Loan terms and conditions; interest rate; term.

A. HOME loans will be available at a cost of 3.0% interest-only on the outstanding principal throughout the loan term and any extended compliance period elected by the sponsor.

B. HOME loans for new construction projects will be for a term of 20 years. Rehabilitation projects will have HOME loan terms of 15 years. Principal repayment will be deferred throughout the loan term. If the sponsor elects extended compliance, the loan principal will be forgiven on a pro rata basis over the extended term.

§ 8.5. Other requirements.

All HOME loan recipients must comply with all applicable federal requirements including, but not limited to, Davis-Bacon Act, equal employment and fair housing, affirmative marketing, environmental review, displacement and relocation, contractor debarment and suspension, minority business enterprises and women's business enterprises, § 3 of the Housing and Urban Development Act of 1968, lead-based paint, and conflict of interest.

VAR. Doc. No. R94-1081; Filed June 22, 1994, 11:47 a.m.

VIRGINIA HOUSING DEVELOPMENT AUTHORITY

REGISTRAR'S NOTICE: The Virginia Housing Development Authority is exempt from the Administrative Process Act (§ 9-6.14:1 et seq. of the Code of Virginia); however, under the provisions of § 9-6.14:22, it is required to publish all proposed and final regulations.

Title of Regulation: VR 400-01-0001. Rules and Regulations - General Provisions for Programs of the Virginia Housing Development Authority.

Statutory Authority: § 36-55.30:3 of the Code of Virginia.

Effective Date: June 21, 1994.

Summary:

The amendments to the authority's rules and regulations (i) delete the definition of "family"; (ii) add a definition of "gross income" which shall be synonymous with "gross family income" as currently defined; (iii) define "household," in the context of the financing of a single family dwelling unit, to be two or more individuals living together on the premises as a single nonprofit housekeeping unit; (iv) change "family" to "household" where appropriate; and (v) make minor clarifications and typographical corrections.

Summary of Public Comment and Agency Response: A summary of comments made by the public and the agency's response may be obtained from the promulgating agency or viewed at the Office of the Registrar of Regulations.

Agency Contact: Copies of the regulation may be obtained from J. Judson McKellar, Jr., Virginia Housing Development Authority, 601 S. Belvidere St., Richmond, VA 23220, telephone (804) 782-1986. There may be a charge for copies.

VR 400-01-0001. Rules and Regulations - General Provisions for Programs of the Virginia Housing Development Authority.

§ 1. Definitions.

The following words and terms, when used in these regulations, shall have the following meaning, unless the context clearly indicates otherwise:

"Act" means the Virginia Housing Development Authority Act, being Chapter 1.2 (§ 36-55.24 et seq.) of Title 36 of the Code of Virginia.

"Adjusted family income" means the total annual income of a person or all members of a family residing or intending to reside in a dwelling unit, from whatever source derived and before taxes or withholdings, less the total of the credits applicable to such person or family, computed in accordance with the following: (i) a credit in an amount equal to \$1,000 for each dependent family member other than such a family member qualifying under (vi) below; (ii) a credit in an amount equal to the lesser of \$1,000 or 10% of such total annual income; (iii) a credit in an amount equal to all income of such person or any such family member of an unusual or temporary nature and not related to such person's or family member's regular employment, to the extent approved by the executive director; (iv) a credit in an amount equal to all earnings of any family member who is a minor under 18 years of age or who is physically or mentally handicapped, as determined on the basis of medical evidence from a licensed physician or other appropriate evidence satisfactory to the executive director; (v) a credit in an amount equal to such person or family's medical

expenses, not compensated for or covered by insurance, in excess of 3.0% of such total annual income; and (vi) a credit in an amount equal to 1/2 of the total annual income of all family members over 18 years of age who are secondary wage earners in the family, provided, however, that such credit shall not exceed the amount of \$2,500. If federal law or rules and regulations impose limitations on the incomes of the persons or families who may own or occupy a single family dwelling unit or multi-family residential housing development, the authority may provide in its rules and regulations that the adjusted family income shall be computed, for the purpose of determining eligibility for ownership or occupancy of such single family dwelling unit or the dwelling units in such multi-family residential housing development (or, if so provided in the applicable rules and regulations of the authority, only those dwelling units in such development which are subject to such federal income limitations), in the manner specified by such federal law or rules and regulations (subject to such modifications as may be provided in or authorized by the applicable rules and regulations of the authority) rather than in the manner provided in the preceding sentence.

"Applicant" means an individual, corporation, partnership, limited partnership, joint venture, trust, firm, association, public body or other legal entity or any combination thereof, making application to receive an authority mortgage loan or other assistance under the Act.

"Application" means a request for an authority mortgage loan or other assistance under the Act.

"Authority" means the Virginia Housing Development Authority.

"Authority mortgage loan" or *"mortgage loan"* means a loan which is made or financed or is to be made or financed, in whole or in part, by the authority pursuant to these rules and regulations and is secured or is to be secured by a mortgage.

"Board" means the Board of Commissioners of the authority.

"Dwelling unit" or *"unit"* means a unit of living accommodations intended for occupancy by one person or family.

"Executive director" means the executive director of the authority or any other officer or employee of the authority who is authorized to act on his behalf or on behalf of the authority pursuant to a resolution of the board.

"Family" means, in the context of the financing of a single family dwelling unit, two or more individuals related by blood, marriage or adoption, living together on the premises as a single nonprofit housekeeping unit. In all contexts other than the financing of a single family dwelling unit, *"family"* means two or more individuals living together in accordance with law.

"FHA" means the Federal Housing Administration and any successor entity.

"For-profit housing sponsor" means a housing sponsor which is organized for profit and may be required by the authority to agree to limit its profit in connection with the sponsorship of authority financed housing in accordance with the terms and conditions of the Act and these rules and regulations and subject to the regulatory powers of the authority.

"Gross family income" or *"gross income"* means the combined annualized gross income of all persons residing or intending to reside in a dwelling unit, from whatever source derived and before taxes or withholdings. For the purpose of this definition, annualized gross income means gross monthly income multiplied by 12. Gross monthly income is the sum of monthly gross pay; plus any additional income from overtime, part-time employment, bonuses, dividends, interest, royalties, pensions, Veterans Administration compensation, net rental income; plus other income (such as alimony, child support, public assistance, sick pay, social security benefits, unemployment compensation, income received from trusts, and income received from business activities or investments).

"Household" means, in the context of the financing of a single family dwelling unit, two or more individuals living together on the premises as a single nonprofit housekeeping unit.

"Multi-family dwelling unit" means a dwelling unit in multi-family residential housing.

"Nonprofit housing sponsor" means a housing sponsor which is organized not for profit and may be required by the authority to agree not to receive any limited dividend distributions from the ownership and operation of a housing development.

"Person" means:

1. An individual who is 62 or more years of age;
2. An individual who is handicapped or disabled, as determined by the executive director on the basis of medical evidence from a licensed physician or other appropriate evidence satisfactory to the executive director; or
3. An individual who is neither handicapped nor disabled nor 62 or more years of age; provided that the board may from time to time by resolution (i) limit the number of, fix the maximum number of bedrooms contained in, or otherwise impose restrictions and limitations with respect to single family dwelling units that may be financed by the authority for occupancy by such individuals and (ii) limit the percentage of multi-family dwelling units within a multi-family residential housing development that may be made available for occupancy by such

Final Regulations

individuals or otherwise impose restrictions and limitations with respect to multi-family dwelling units intended for occupancy by such individuals.

"Rent" means the rent or other occupancy charge applicable to a dwelling unit within a housing development operated on a rental basis or owned and operated on a cooperative basis.

"Reservation" means the official action, as evidenced in writing, taken by the authority to designate a specified amount of funds for the financing of a mortgage loan on a single family dwelling unit.

"Single family dwelling unit" means a dwelling unit in single family residential housing.

The foregoing words and terms, when used in any other rules and regulations of the authority, shall have the same meaning as set forth above, unless otherwise defined in such rules and regulations. Terms defined in the Act and used and not otherwise defined herein shall have the same meaning ascribed to them in the Act.

§ 2. Eligibility for occupancy.

A. The board shall from time to time establish, by resolution or by rules and regulations, income limitations with respect to single family dwelling units financed or to be financed by the authority. Such income limits may vary based upon the area of the state, type of program, the size and circumstances of the person or ~~family household~~, the type and characteristics of the single-family dwelling unit, and any other factors determined by the board to be necessary or appropriate for the administration of its programs. Such resolution or rules and regulations shall specify whether the person's or ~~family's household's~~ income shall be calculated as adjusted family income or gross ~~family~~ income. To be considered eligible for the financing of a single family dwelling unit, a person or ~~family household~~ shall not have an adjusted family income or gross ~~family~~ income, as applicable, which exceeds the applicable limitation established by the board. It shall be the responsibility of each applicant for the financing of a single family dwelling unit to report accurately and completely his adjusted family income or gross ~~family~~ income, as applicable, ~~family household~~ composition and such other information relating to eligibility for occupancy as the executive director may require and to provide the authority with verification thereof.

B. To be considered eligible for occupancy of a multi-family dwelling unit financed by an authority mortgage loan, a person or family shall not have an adjusted family income greater than (i) in the case of a multi-family dwelling unit for which the board has approved the mortgage loan prior to November 15, 1991, seven times the total annual rent, including utilities except telephone, applicable to such dwelling unit; provided, however, that the board may from time to time establish, by resolution or by rules and regulations, lower income

limits for occupancy of such dwelling unit; and provided further that in the case of any dwelling unit for which no amounts are payable by or on behalf of such person or family or the amounts payable by or on behalf of such person or family are deemed by the board not to be rent, the income limits shall be established by the board by resolution or by rules and regulations; or (ii) in the case of a multi-family dwelling unit for which the board has approved the mortgage loan on or after November 15, 1991, such percentage of the area median gross income as the board may from time to time establish by resolution or by rules and regulations for occupancy of such dwelling unit. In the case of a multi-family dwelling unit described in (i) above, the mortgagor and the authority may agree to apply an income limit established pursuant to (ii) above in lieu of the income limit set forth in (i) above.

C. It shall be the responsibility of the housing sponsor to examine and determine the income and eligibility of applicants for occupancy of multi-family dwelling units, report such determinations to the authority in such form as the executive director may require, reexamine and redetermine the income and eligibility of all occupants of such dwelling units every two years or at more frequent intervals if required by the executive director, and report such redeterminations to the authority in such form as the executive director may require. It shall be the responsibility of each applicant for occupancy of a multi-family dwelling unit, and of each occupant of such dwelling units, to report accurately and completely his adjusted family's income, family composition and such other information relating to eligibility for occupancy as the executive director may require and to provide the housing sponsor and the authority with verification thereof at the times of examination and reexamination of income and eligibility as aforesaid.

D. With respect to a person or family occupying a multi-family dwelling unit, if a periodic reexamination and redetermination of the adjusted family's income and eligibility as provided in subsection C of this section establishes that such person's or family's adjusted family income then exceeds the maximum limit for occupancy of such dwelling unit applicable at the time of such reexamination and redetermination, such person or family shall be permitted to continue to occupy such dwelling unit; provided, however, that during the period that such person's or family's adjusted family income exceeds such maximum limit, such person or family may be required by the executive director to pay such rent, carrying charges or surcharge as determined by the executive director in accordance with a schedule prescribed or approved by him. If such person's or family's adjusted family income shall exceed such maximum limit for a period of six months or more, the executive director may direct or permit the housing sponsor to terminate the tenancy or interest by giving written notice of termination to such person or family specifying the reason for such termination and giving such person or family not less than 90 days (or such longer period of time as the authority shall determine to be necessary to find suitable alternative

housing) within which to vacate such dwelling unit. If any person or family residing in a housing development which is a cooperative is so required to be removed from the housing development, such person or family shall be discharged from any liability on any note, bond or other evidence of indebtedness relating thereto and shall be reimbursed for all sums paid by such person or family to the housing sponsor on account of the purchase of stock or debentures as a condition of occupancy in such cooperative and any additional sums payable to such person or family in accordance with a schedule prescribed or approved by the authority, subject however to the terms of any instrument or agreement relating to such cooperative or the occupancy thereof.

§ 3. Forms.

Forms of documents, instruments and agreements to be employed with respect to the processing of applications, the making or financing of loans under these rules and regulations, the issuance and sale of authority notes and bonds, and any other matters relating to such loans and the implementation and administration of the authority's programs shall be prepared, revised and amended from time to time under the direction and control of the executive director.

§ 4. Interest rates.

The executive director shall establish the interest rate or rates to be charged to the housing sponsor or person or family in connection with any loan made or financed under these rules and regulations. To the extent permitted by the documents relating to the loan, the executive director may adjust at any time and from time to time the interest rate or rates charged on such loan. Without limiting the foregoing, the interest rate or rates may be adjusted if such adjustment is determined to be necessary or appropriate by the executive director as a result of any allocation or reallocation of such loan to or among the authority's note or bond funds or any other funds of the authority. Any interest rate or rates established pursuant to this § 4 shall reflect the intent expressed in subdivision 3 of subsection A of § 36-55.33:1 of the Code of Virginia.

§ 5. Federally assisted loans.

When a housing development or dwelling unit financed by a loan under these rules and regulations or otherwise assisted by the authority is subject to federal mortgage insurance or is otherwise assisted or aided, directly or indirectly, by the federal government or where the authority assists in the administration of any federal program, the applicable federal law and rules and regulations shall be controlling over any inconsistent provision hereof.

§ 6. Administration of state and federal programs; acceptance of aid and guarantees.

A. The board by resolution may authorize the authority

to operate and administer any program to provide loans or other housing assistance for persons and families of low and moderate income and, in furtherance thereof, to enter into agreements or other transactions with the federal government, the Commonwealth of Virginia or any governmental agency thereof, any municipality or any other persons or entities and to take such other action as shall be necessary or appropriate for the purpose of operating and administering, on behalf of or in cooperation with any of the foregoing, any such program.

B. The board by resolution may authorize the acceptance by the authority of gifts, grants, loans, contributions or other aid, including insurance and guarantees, from the federal government, the Commonwealth of Virginia or any agency thereof, or any other source in furtherance of the purposes of the Act, do any and all things necessary in order to avail itself of such aid, agree and comply with such conditions upon which such gifts, grants, loans, contributions, insurance, guarantees or other aid may be made, and authorize and direct the execution on behalf of the authority of any instrument or agreement which it considers necessary or appropriate to implement any such gifts, grants, loans, contributions, insurance guarantees or other aid.

C. Without limitation on the provisions of subsection B of this section, the board by resolution may authorize the acceptance by the authority of any insurance or guarantee or commitment to insure or guarantee its bonds or notes and any grant with respect to such bonds or notes, whether insured, guaranteed or otherwise, and may authorize and direct the execution on behalf of the authority of any instrument or agreement which it considers necessary or appropriate with respect thereto.

§ 7. Assistance of mortgage lenders.

The authority may, at its option, utilize the assistance and services of mortgage lenders in the processing, originating, disbursing and servicing of loans under these rules and regulations. The executive director is authorized to take such action and to execute such agreements and documents as he shall deem necessary or appropriate in order to procure, maintain and supervise such assistance and services. In the case of authority mortgage loans to be financed from the proceeds of obligations issued by the authority pursuant to § 36-55.37:1 of the Code of Virginia, the authority shall be required to utilize such assistance and services of mortgage lenders in the origination and servicing of such authority mortgage loans.

§ 8. Purchase of mortgage loans.

A. The authority may from time to time, pursuant and subject to its rules and regulations, purchase mortgage loans from mortgage lenders. In furtherance thereof, the executive director may request mortgage lenders to submit offers to sell mortgage loans to the authority in such manner, within such time period and subject to such terms and conditions as he shall specify in such request. The

Final Regulations

VA.R. Doc. No. R94-1071; Filed June 21, 1994, 4:04 p.m.

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executive director may take such action as he shall deem necessary or appropriate to solicit offers to sell mortgage loans, including mailing of the request to mortgage lenders, advertising in newspapers or other publications and any other methods of public announcement which he may select as appropriate under the circumstances. The executive director may also consider and accept offers for sale of individual mortgage loans submitted from time to time to the authority without any solicitation therefor by the authority.

B. The authority shall require as a condition of the purchase of any mortgage loans from a mortgage lender pursuant to this section that such mortgage lender within 180 days from the receipt of proceeds of such purchase shall enter into written commitments to make, and shall thereafter proceed as promptly as practical to make and disburse from such proceeds, residential mortgage loans in the Commonwealth of Virginia having a stated maturity of not less than 20 years from the date thereof in an aggregate principal amount equal to the amount of such proceeds.

C. At or before the purchase of any mortgage loan pursuant to this section, the mortgage lender shall certify to the authority that the mortgage loan would in all respects be a prudent investment and that the proceeds of the purchase of the mortgage loan shall be invested as provided in subsection B of this section or invested in short-term obligations pending such investment.

D. The purchase price for any mortgage loan to be purchased by the authority pursuant to this section shall be established in accordance with subdivision (2) of § 36-55.35 of the Code of Virginia.

§ 9. Waiver.

The executive director may for good cause in any particular case waive or vary any of the provisions of these rules and regulations to the extent not inconsistent with the Act or with other applicable provisions of law.

§ 10. Amendment.

These rules and regulations may be amended and supplemented by the board at such times and in such manner as it may determine, to the extent not inconsistent with the Act or with other applicable provisions of law.

§ 11. Separability.

If any clause, sentence, paragraph, section or part of these rules and regulations shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section or part thereof directly involved in the controversy in which such judgment shall have been rendered.

Title of Regulation: VR 400-02-0003. Rules and Regulations for Single Family Mortgage Loans to Persons and Families Households of Low and Moderate Income.

Statutory Authority: § 36-55.30:3 of the Code of Virginia.

Effective Date: June 21, 1994.

Summary:

The amendments to the authority's rules and regulations (i) provide that single family loans can be made to more than one person if all such persons to whom the loan is to be made are to live together in the dwelling as a single nonprofit housekeeping unit; (ii) delete the requirement that such persons be related by blood, marriage or adoption; (iii) delete or modify references to "family" or terms containing "family," as appropriate, to reflect the foregoing changes; and (iv) make conforming changes, minor clarifications and typographical corrections.

Summary of Public Comment and Agency Response: A summary of comments made by the public and the agency's response may be obtained from the promulgating agency or viewed at the Office of the Registrar of Regulations.

Agency Contact: Copies of the regulation may be obtained from J. Judson McKellar, Jr., Virginia Housing Development Authority, 601 S. Belvidere Street, Richmond, VA 23220, telephone (804) 782-1986. There may be a charge for copies.

VR 400-02-0003. Rules and Regulations for Single Family Mortgage Loans to Persons and Households of Low and Moderate Income.

PART I. GENERAL.

§ 1.1. General.

The following rules and regulations will be applicable to mortgage loans which are made or financed or are proposed to be made or financed by the authority to persons and ~~families~~ households of low and moderate income for the acquisition (and, where applicable, rehabilitation), ownership and occupancy of single family housing units.

In order to be considered eligible for a mortgage loan hereunder, a "person" or "~~family~~" "household" (as defined in the authority's rules and regulations) must have a "gross family income" (as determined in accordance with the authority's rules and regulations) which does not exceed the applicable income limitation set forth in Part

II hereof. Furthermore, the sales price of any single family unit to be financed hereunder must not exceed the applicable sales price limit set forth in Part II hereof. The term "sales price," with respect to a mortgage loan for the combined acquisition and rehabilitation of a single family dwelling unit, shall include the cost of acquisition, plus the cost of rehabilitation and debt service for such period of rehabilitation, not to exceed three months, as the executive director shall determine that such dwelling unit will not be available for occupancy. In addition, each mortgage loan must satisfy all requirements of federal law applicable to loans financed with the proceeds of tax-exempt bonds as set forth in Part II hereof.

Mortgage loans may be made or financed pursuant to these rules and regulations only if and to the extent that the authority has made or expects to make funds available therefor.

Notwithstanding anything to the contrary herein, the executive director is authorized with respect to any mortgage loan hereunder to waive or modify any provisions of these rules and regulations where deemed appropriate by him for good cause, to the extent not inconsistent with the Act.

All reviews, analyses, evaluations, inspections, determinations and other actions by the authority pursuant to the provisions of these rules and regulations shall be made for the sole and exclusive benefit and protection of the authority and shall not be construed to waive or modify any of the rights, benefits, privileges, duties, liabilities or responsibilities of the authority or the mortgagor under the agreements and documents executed in connection with the mortgage loan.

The rules and regulations set forth herein are intended to provide a general description of the authority's processing requirements and are not intended to include all actions involved or required in the originating and administration of mortgage loans under the authority's single family housing program. These rules and regulations are subject to change at any time by the authority and may be supplemented by policies, rules and regulations adopted by the authority from time to time.

§ 1.2. Origination and servicing of mortgage loans.

A. Approval/definitions.

The originating of mortgage loans and the processing of applications for the making or financing thereof in accordance herewith shall, except as noted in subsection G of this § 1.2, be performed through commercial banks, savings and loan associations, private mortgage bankers, redevelopment and housing authorities, and agencies of local government approved as originating agents ("originating agents") of the authority. The servicing of mortgage loans shall, except as noted in subsection H of this § 1.2, be performed through commercial banks, savings and loan associations and private mortgage bankers

approved as servicing agents ("servicing agents") of the authority.

To be initially approved as an originating agent or as a servicing agent, the applicant must meet the following qualifications:

1. Be authorized to do business in the Commonwealth of Virginia;
2. Have a net worth equal to or in excess of \$250,000 or such other amount as the executive director shall from time to time deem appropriate, except that this qualification requirement shall not apply to redevelopment and housing authorities and agencies of local government;
3. Have a staff with demonstrated ability and experience in mortgage loan origination and processing (in the case of an originating agent applicant) or servicing (in the case of a servicing agent applicant); and
4. Such other qualifications as the executive director shall deem to be related to the performance of its duties and responsibilities.

Each originating agent approved by the authority shall enter into an originating agreement ("originating agreement"), with the authority containing such terms and conditions as the executive director shall require with respect to the origination and processing of mortgage loans hereunder. Each servicing agent approved by the authority shall enter into a servicing agreement with the authority containing such terms and conditions as the executive director shall require with respect to the servicing of mortgage loans.

An applicant may be approved as both an originating agent and a servicing agent ("originating and servicing agent"). Each originating and servicing agent shall enter into an originating and servicing agreement ("originating and servicing agreement") with the authority containing such terms and conditions as the executive director shall require with respect to the originating and servicing of mortgage loans hereunder.

For the purposes of these rules and regulations, the term "originating agent" shall hereinafter be deemed to include the term "originating and servicing agent," unless otherwise noted or the context indicates otherwise. Similarly, the term "originating agreement" shall hereinafter be deemed to include the term "originating and servicing agreement," unless otherwise noted or the context indicates otherwise. The term "servicing agent" shall continue to mean an agent authorized only to service mortgage loans. The term "servicing agreement" shall continue to mean only the agreement between the authority and a servicing agent.

Originating agents and servicing agents shall maintain

Final Regulations

adequate books and records with respect to mortgage loans which they originate and process or service, as applicable, shall permit the authority to examine such books and records, and shall submit to the authority such reports (including annual financial statements) and information as the authority may require. The fees payable to the originating agents and servicing agents for originating and processing or for servicing mortgage loans hereunder shall be established from time to time by the executive director and shall be set forth in the originating agreements and servicing agreements applicable to such originating agents and servicing agents.

B. Allocation of funds.

The executive director shall allocate funds for the making or financing of mortgage loans hereunder in such manner, to such persons and entities, in such amounts, for such period, and subject to such terms and conditions as he shall deem appropriate to best accomplish the purposes and goals of the authority. Without limiting the foregoing, the executive director may allocate funds (i) to mortgage loan applicants on a first-come, first-serve or other basis, (ii) to originating agents and state and local government agencies and instrumentalities for the origination of mortgage loans to qualified applicants and/or (iii) to builders for the permanent financing of residences constructed or rehabilitated or to be constructed or or rehabilitated by them and to be sold to qualified applicants. In determining how to so allocate the funds, the executive director may consider such factors as he deems relevant, including any of the following:

1. The need for the expeditious commitment and disbursement of such funds for mortgage loans;
2. The need and demand for the financing of mortgage loans with such funds in the various geographical areas of the Commonwealth;
3. The cost and difficulty of administration of the allocation of funds;
4. The capability, history and experience of any originating agents, state and local governmental agencies and instrumentalities, builders, or other persons and entities (other than mortgage loan applicants) who are to receive an allocation; and
5. Housing conditions in the Commonwealth.

In the event that the executive director shall determine to make allocations of funds to builders as described above, the following requirements must be satisfied by each such builder:

1. The builder must have a valid contractor's license in the Commonwealth;
2. The builder must have at least three years' experience of a scope and nature similar to the

proposed construction or rehabilitation; and

3. The builder must submit to the authority plans and specifications for the proposed construction or rehabilitation which are acceptable to the authority.

The executive director may from time to time take such action as he may deem necessary or proper in order to solicit applications for allocation of funds hereunder. Such actions may include advertising in newspapers and other media, mailing of information to prospective applicants and other members of the public, and any other methods of public announcement which the executive director may select as appropriate under the circumstances. The executive director may impose requirements, limitations and conditions with respect to the submission of applications as he shall consider necessary or appropriate. The executive director may cause market studies and other research and analyses to be performed in order to determine the manner and conditions under which funds of the authority are to be allocated and such other matters as he shall deem appropriate relating thereto. The authority may also consider and approve applications for allocations of funds submitted from time to time to the authority without any solicitation therefor on the part of the authority.

C. Originating guide and servicing guide.

These rules and regulations constitute a portion of the originating guide of the authority. The processing guide and all exhibits and other documents referenced herein are not included in, and shall not be deemed to be a part of, these rules and regulations. The executive director is authorized to prepare and from time to time revise a processing guide and a servicing guide which shall set forth the accounting and other procedures to be followed by all originating agents and servicing agents responsible for the origination, closing and servicing of mortgage loans under the applicable originating agreements and servicing agreements. Copies of the processing guide and the servicing guide shall be available upon request. The executive director shall be responsible for the implementation and interpretation of the provisions of the originating guide (including the processing guide) and the servicing guide.

D. Making and purchase of new mortgage loans.

The authority may from time to time (i) make mortgage loans directly to mortgagors with the assistance and services of its originating agents and (ii) agree to purchase individual mortgage loans from its originating agents or servicing agents upon the consummation of the closing thereof. The review and processing of applications for such mortgage loans, the issuance of mortgage loan commitments therefor, the closing and servicing (and, if applicable, the purchase) of such mortgage loans, and the terms and conditions relating to such mortgage loans shall be governed by and shall comply with the provisions of the applicable originating agreement or servicing

agreement, the originating guide, the servicing guide, the Act and these rules and regulations.

If the applicant and the application for a mortgage loan meet the requirements of the Act and these rules and regulations, the executive director may issue on behalf of the authority a mortgage loan commitment to the applicant for the financing of the single family dwelling unit, subject to the approval of ratification thereof by the board. Such mortgage loan commitment shall be issued only upon the determination of the authority that such a mortgage loan is not otherwise available from private lenders upon reasonably equivalent terms and conditions, and such determination shall be set forth in the mortgage loan commitment. The original principal amount and term of such mortgage loan, the amortization period, the terms and conditions relating to the prepayment thereof, and such other terms, conditions and requirements as the executive director deems necessary or appropriate shall be set forth or incorporated in the mortgage loan commitment issued on behalf of the authority with respect to such mortgage loan.

E. Purchase of existing mortgage loans.

The authority may purchase from time to time existing mortgage loans with funds held or received in connection with bonds issued by the authority prior to January 1, 1981, or with other funds legally available therefor. With respect to any such purchase, the executive director may request and solicit bids or proposals from the authority's originating agents and servicing agents for the sale and purchase of such mortgage loans, in such manner, within such time period and subject to such terms and conditions as he shall deem appropriate under the circumstances. The sales prices of the single family housing units financed by such mortgage loans, the gross family incomes of the mortgagors thereof, and the original principal amounts of such mortgage loans shall not exceed such limits as the executive director shall establish, subject to approval or ratification by resolution of the board. The executive director may take such action as he deems necessary or appropriate to solicit offers to sell mortgage loans, including mailing of the request to originating agents and servicing agents, advertising in newspapers or other publications and any other method of public announcement which he may select as appropriate under the circumstances. After review and evaluation by the executive director of the bids or proposals, he shall select those bids or proposals that offer the highest yield to the authority on the mortgage loans (subject to any limitations imposed by law on the authority) and that best conform to the terms and conditions established by him with respect to the bids or proposals. Upon selection of such bids or proposals, the executive director shall issue commitments to the selected originating agents and servicing agents to purchase the mortgage loans, subject to such terms and conditions as he shall deem necessary or appropriate and subject to the approval or ratification by the board. Upon satisfaction of the terms of the commitments, the executive director shall execute such agreements and

documents and take such other action as may be necessary or appropriate in order to consummate the purchase and sale of the mortgage loans. The mortgage loans so purchased shall be serviced in accordance with the applicable originating agreement or servicing agreement and the Servicing Guide. Such mortgage loans and the purchase thereof shall in all respects comply with the Act and the authority's rules and regulations.

F. Delegated underwriting and closing.

The executive director may, in his discretion, delegate to one or more originating agents all or some of the responsibility for underwriting, issuing commitments for mortgage loans and disbursing the proceeds hereof without prior review and approval by the authority. The issuance of such commitments shall be subject to ratification thereof by the board of the authority. If the executive director determines to make any such delegation, he shall establish criteria under which originating agents may qualify for such delegation. If such delegation has been made, the originating agents shall submit all required documentation to the authority at such time as the authority may require. If the executive director determines that a mortgage loan does not comply with any requirement under the originating guide, the applicable originating agreement, the Act or these rules and regulations for which the originating agent was delegated responsibility, he may require the originating agents to purchase such mortgage loan, subject to such terms and conditions as he may prescribe.

G. Field originators.

The authority may utilize financial institutions, mortgage brokers and other private firms and individuals and governmental entities ("field originators") approved by the authority for the purpose of receiving applications for mortgage loans. To be approved as a field originator, the applicant must meet the following qualifications:

1. Be authorized to do business in the Commonwealth of Virginia;
2. Have made any necessary filings or registrations and have received any and all necessary approvals or licenses in order to receive applications for mortgage loans in the Commonwealth of Virginia;
3. Have the demonstrated ability and experience in the receipt and processing of mortgage loan applications; and
4. Have such other qualifications as the executive director shall deem to be related to the performance of its duties and responsibilities.

Each field originator approved by the authority shall enter into such agreement as the executive director shall require with respect to the receipt of applications for mortgage loans. Field originators shall perform such of the

Final Regulations

duties and responsibilities of originating agents under these rules and regulations as the authority may require in such agreement.

Field originators shall maintain adequate books and records with respect to mortgage loans for which they accept applications, shall permit the authority to examine such books and records, and shall submit to the authority such reports and information as the authority may require. The fees to the field originators for accepting applications shall be payable in such amount and at such time as the executive director shall determine.

In the case of mortgage loans for which applications are received by field originators, the authority may process and originate the mortgage loans; accordingly, unless otherwise expressly provided, the provisions of these rules and regulations requiring the performance of any action by originating agents shall not be applicable to the origination and processing by the authority of such mortgage loans, and any or all of such actions may be performed by the authority on its own behalf.

H. Servicing by the authority.

The authority may service mortgage loans for which the applications were received by field originators or any mortgage loan which, in the determination of the authority, originating agents and servicing agents will not service on terms and conditions acceptable to the authority or for which the originating agent or servicing agent has agreed to terminate the servicing thereof.

PART II. PROGRAM REQUIREMENTS.

§ 2.1. Eligible persons and ~~families~~ *households* .

A. Person.

A one-person household is eligible.

B. ~~Family~~ *Household* .

A single family loan can be made to more than one person only if all such persons to whom the loan is *to be made are related by blood, marriage or adoption and are living are to live* together in the dwelling as a single nonprofit housekeeping unit.

C. Citizenship.

Each applicant for an authority mortgage loan must either be a United States citizen or be a lawful permanent (not conditional) resident alien as determined by the U.S. Department of Immigration and Naturalization Service.

§ 2.2. Compliance with certain requirements of the Internal Revenue Code of 1986, as amended (hereinafter "the tax code").

The tax code imposes certain requirements and restrictions on the eligibility of mortgagors and residences for financing with the proceeds of tax-exempt bonds. In order to comply with these federal requirements and restrictions, the authority has established certain procedures which must be performed by the originating agent in order to determine such eligibility. The eligibility requirements for the borrower and the dwelling are described below as well as the procedures to be performed. The originating agent will perform these procedures and evaluate a borrower's eligibility prior to the authority's approval of each loan. No loan will be approved by the authority unless all of the federal eligibility requirements are met as well as the usual requirements of the authority set forth in other parts of this originating guide.

§ 2.2.1. Eligible borrowers.

A. General.

In order to be considered an eligible borrower for an authority mortgage loan, an applicant must, among other things, meet all of the following federal criteria:

The applicant:

1. May not have had a present ownership interest in his principal residence within the three years preceding the date of execution of the mortgage loan documents. (See § 2.2.1 B Three-year requirement);
2. Must agree to occupy and use the residential property to be purchased as his permanent, principal residence within 60 days (90 days in the case of a rehabilitation loan as defined in § 2.17) after the date of the closing of the mortgage loan. (See § 2.2.1 C Principal residence requirement);
3. Must not use the proceeds of the mortgage loan to acquire or replace an existing mortgage or debt, except in the case of certain types of temporary financing. (See § 2.2.1 D New mortgage requirement);
4. Must have contracted to purchase an eligible dwelling. (See § 2.2.2 Eligible dwellings);
5. Must execute an affidavit of borrower (Exhibit E) at the time of loan application;
6. Must not receive income in an amount in excess of the applicable federal income limit imposed by the tax code (See § 2.5 Income requirements);
7. Must agree not to sell, lease or otherwise transfer an interest in the residence or permit the assumption of his mortgage loan unless certain requirements are met. (See § 2.10 Loan assumptions); and
8. Must be over the age of 18 years or have been declared emancipated by order or decree of a court

having jurisdiction.

B. Three-year requirement.

An eligible borrower does not include any borrower who, at any time during the three years preceding the date of execution of the mortgage loan documents, had a "present ownership interest" (as hereinafter defined) in his principal residence. Each borrower must certify on the affidavit of borrower that at no time during the three years preceding the execution of the mortgage loan documents has he had a present ownership interest in his principal residence. This requirement does not apply to residences located in "targeted areas" (see § 2.3 Targeted areas); however, even if the residence is located in a "targeted area," the tax returns for the most recent taxable year (or the letter described in 3 below) must be obtained for the purpose of determining compliance with other requirements.

1. Definition of present ownership interest. "Present ownership interest" includes:

- a. A fee simple interest,
- b. A joint tenancy, a tenancy in common, or a tenancy by the entirety,
- c. The interest of a tenant shareholder in a cooperative,
- d. A life estate,
- e. A land contract, under which possession and the benefits and burdens of ownership are transferred although legal title is not transferred until some later time, and
- f. An interest held in trust for the eligible borrower (whether or not created by the eligible borrower) that would constitute a present ownership interest if held directly by the eligible borrower.

Interests which do not constitute a present ownership interest include:

- a. A remainder interest,
- b. An ordinary lease with or without an option to purchase,
- c. A mere expectancy to inherit an interest in a principal residence,
- d. The interest that a purchaser of a residence acquires on the execution of an accepted offer to purchase real estate, and
- e. An interest in other than a principal residence during the previous three years.

2. Persons covered. This requirement applies to any person who will execute the mortgage document or note and will have a present ownership interest (as defined above) in the eligible dwelling.

3. Prior tax returns. To verify that the eligible borrower meets the three-year requirement, the originating agent must obtain copies of signed federal income tax returns filed by the eligible borrower for the three tax years immediately preceding execution of the mortgage documents (or certified copies of the returns) or a copy of a letter from the Internal Revenue Service stating that its Form 1040A or 1040EZ was filed by the eligible borrower for any of the three most recent tax years for which copies of such returns are not obtained. If the eligible borrower was not required by law to file a federal income tax return for any of these three years and did not so file, and so states on the borrower affidavit, the requirement to obtain a copy of the federal income tax return or letter from the Internal Revenue Service for such year or years is waived.

The originating agent shall examine the tax returns particularly for any evidence that the eligible borrower may have claimed deductions for property taxes or for interest on indebtedness with respect to real property constituting his principal residence.

4. Review by originating agent. The originating agent must, with due diligence, verify the representations in the affidavit of borrower (Exhibit E) regarding the applicant's prior residency by reviewing any information including the credit report and the tax returns furnished by the eligible borrower for consistency, and make a determination that on the basis of its review each borrower has not had present ownership interest in a principal residence at any time during the three-year period prior to the anticipated date of the loan closing.

C. Principal residence requirement.

1. General. An eligible borrower must intend at the time of closing to occupy the eligible dwelling as a principal residence within 60 days (90 days in the case of a purchase and rehabilitation loan) after the closing of the mortgage loan. Unless the residence can reasonably be expected to become the principal residence of the eligible borrower within 60 days (90 days in the case of a purchase and rehabilitation loan) of the mortgage loan closing date, the residence will not be considered an eligible dwelling and may not be financed with a mortgage loan from the authority. An eligible borrower must covenant to intend to occupy the eligible dwelling as a principal residence within 60 days (90 days in the case of a purchase and rehabilitation loan) after the closing of the mortgage loan on the affidavit of borrower (to be updated by the verification and update of information form) and as part of the attachment to the deed of

Final Regulations

trust.

2. Definition of principal residence. A principal residence does not include any residence which can reasonably be expected to be used: (i) primarily in a trade or business, (ii) as an investment property, or (iii) as a recreational or second home. A residence may not be used in a manner which would permit any portion of the costs of the eligible dwelling to be deducted as a trade or business expense for federal income tax purposes or under circumstances where more than 15% of the total living area is to be used primarily in a trade or business.

3. Land not to be used to produce income. The land financed by the mortgage loan may not provide, other than incidentally, a source of income to the eligible borrower. The eligible borrower must indicate on the affidavit of borrower that, among other things:

a. No portion of the land financed by the mortgage loan provides a source of income (other than incidental income);

b. He does not intend to farm any portion (other than as a garden for personal use) of the land financed by the mortgage loan; and

c. He does not intend to subdivide the property.

4. Lot size. Only such land as is reasonably necessary to maintain the basic liveability of the residence may be financed by a mortgage loan. The financed land must not exceed the customary or usual lot in the area. Generally, the financed land will not be permitted to exceed two acres, even in rural areas. However, exceptions may be made to permit lots larger than two acres, but in no event in excess of five acres: (i) if the land is owned free and clear and is not being financed by the loan, the lot may be as large as five acres, (ii) if difficulty is encountered locating a well or septic field, the lot may include the additional acreage needed, (iii) local city and county ordinances which require more acreage will be taken into consideration, or (iv) if the lot size is determined by the authority, based upon objective information provided by the borrower, to be usual and customary in the area for comparably priced homes.

5. Review by originating agent. The affidavit of borrower (Exhibit E) must be reviewed by the originating agent for consistency with the eligible borrower's federal income tax returns and the credit report, and the originating agent must, based on such review, make a determination that the borrower has not used any previous residence or any portion thereof primarily in any trade or business.

6. Post-closing procedures. The originating agent shall establish procedures to (i) review correspondence, checks and other documents received from the

borrower during the 120-day period following the loan closing for the purpose of ascertaining that the address of the residence and the address of the borrower are the same and (ii) notify the authority if such addresses are not the same. Subject to the authority's approval, the originating agent may establish different procedures to verify compliance with this requirement.

D. New mortgage requirement.

Mortgage loans may be made only to persons who did not have a mortgage (whether or not paid off) on the eligible dwelling at any time prior to the execution of the mortgage. Mortgage loan proceeds may not be used to acquire or replace an existing mortgage or debt for which the eligible borrower is liable or which was incurred on behalf of the eligible borrower, except in the case of construction period loans, bridge loans or similar temporary financing which has a term of 24 months or less.

1. Definition of mortgage. For purposes of applying the new mortgage requirement, a mortgage includes deeds of trust, conditional sales contracts (i.e. generally a sales contract pursuant to which regular installments are paid and are applied to the sales price), pledges, agreements to hold title in escrow, a lease with an option to purchase which is treated as an installment sale for federal income tax purposes and any other form of owner-financing. Conditional land sale contracts shall be considered as existing loans or mortgages for purposes of this requirement.

2. Temporary financing. In the case of a mortgage loan (having a term of 24 months or less) made to refinance a loan for the construction of an eligible dwelling, the authority shall not make such mortgage loan until it has determined that such construction has been satisfactorily completed.

3. Review by originating agent. Prior to closing the mortgage loan, the originating agent must examine the affidavit of borrower (Exhibit E), the affidavit of seller (Exhibit F), and related submissions, including (i) the eligible borrower's federal income tax returns for the preceding three years, and (ii) credit report, in order to determine whether the eligible borrower will meet the new mortgage requirements. Based upon such review, the originating agent shall make a determination that the proceeds of the mortgage loan will not be used to repay or refinance an existing mortgage debt of the borrower and that the borrower did not have a mortgage loan on the eligible dwelling prior to the date hereof, except for permissible temporary financing described above.

E. Multiple loans.

Any eligible borrower may not have more than one outstanding authority first mortgage loan.

§ 2.2.2. Eligible dwellings.

A. In general.

In order to qualify as an eligible dwelling for which an authority loan may be made, the residence must:

1. Be located in the Commonwealth;
2. Be a one-family detached residence, a townhouse or one unit of an authority approved condominium; and
3. Satisfy the acquisition cost requirements set forth below.

B. Acquisition cost requirements.

1. General rule. The acquisition cost of an eligible dwelling may not exceed certain limits established by the U.S. Department of the Treasury in effect at the time of the application. Note: In all cases for new loans such federal limits equal or exceed the authority's sales price limits shown in § 2.3. Therefore, for new loans the residence is an eligible dwelling if the acquisition cost is not greater than the authority's sales price limit. In the event that the acquisition cost exceeds the authority's sales price limit, the originating agent must contact the authority to determine if the residence is an eligible dwelling.

2. Acquisition cost requirements for assumptions. To determine if the acquisition cost is at or below the federal limits for assumptions, the originating agent or, if applicable, the servicing agent must in all cases contact the authority (see § 2.10 below).

3. Definition of acquisition cost. Acquisition cost means the cost of acquiring the eligible dwelling from the seller as a completed residence.

a. Acquisition cost includes:

(1) All amounts paid, either in cash or in kind, by the eligible borrower (or a related party or for the benefit of the eligible borrower) to the seller (or a related party or for the benefit of the seller) as consideration for the eligible dwelling. Such amounts include amounts paid for items constituting fixtures under state law, but not for items of personal property not constituting fixtures under state law. (See Exhibit R for examples of fixtures and items of personal property.)

(2) The reasonable costs of completing or rehabilitating the residence (whether or not the cost of completing construction or rehabilitation is to be financed with the mortgage loan) if the eligible dwelling is incomplete or is to be rehabilitated. As an example of reasonable completion cost, costs of completing the eligible dwelling so as to permit occupancy under local law would be included in the

acquisition cost. A residence which includes unfinished areas (i.e. an area designed or intended to be completed or refurbished and used as living space, such as the lower level of a tri-level residence or the upstairs of a Cape Cod) shall be deemed incomplete, and the costs of finishing such areas must be included in the acquisition cost.

(3) The cost of land on which the eligible dwelling is located and which has been owned by the eligible borrower for a period no longer than two years prior to the construction of the structure comprising the eligible dwelling.

b. Acquisition cost does not include:

(1) Usual and reasonable settlement or financing costs. Such excluded settlement costs include title and transfer costs, title insurance, survey fees and other similar costs. Such excluded financing costs include credit reference fees, legal fees, appraisal expenses, points which are paid by the eligible borrower, or other costs of financing the residence. Such amounts must not exceed the usual and reasonable costs which otherwise would be paid. Where the buyer pays more than a pro rata share of property taxes, for example, the excess is to be treated as part of the acquisition cost.

(2) The imputed value of services performed by the eligible borrower or members of his family (brothers and sisters, spouse, ancestors and lineal descendants) in constructing or completing the residence.

4. Acquisition cost. The originating agent is required to obtain from each eligible borrower a completed affidavit of borrower which shall include a calculation of the acquisition cost of the eligible dwelling in accordance with this subsection B. The originating agent shall assist the eligible borrower in the correct calculation of such acquisition cost. The affidavit of seller shall also certify as to the acquisition cost of the eligible dwelling.

5. Review by originating agent. The originating agent shall for each new loan determine whether the acquisition cost of the eligible dwelling exceeds the authority's applicable sales price limit shown in § 2.4. If the acquisition cost exceeds such limit, the originating agent must contact the authority to determine if the residence is an eligible dwelling for a new loan. (For an assumption, the originating agent or, if applicable, the servicing agent must contact the authority for this determination in all cases - see § 2.10 below). Also, as part of its review, the originating agent must review the affidavit of borrower submitted by each mortgage loan applicant and must make a determination that the acquisition cost of the eligible dwelling has been calculated in accordance with this subsection B. In addition, the originating agent must

Final Regulations

compare the information contained in the affidavit of borrower with the information contained in the affidavit of seller and other sources and documents such as the contract of sale for consistency of representation as to acquisition cost.

6. Independent appraisal. The authority reserves the right to obtain an independent appraisal in order to establish fair market value and to determine whether a dwelling is eligible for the mortgage loan requested.

§ 2.2.3. Targeted areas.

A. In general.

In accordance with the tax code, the authority will make a portion of the proceeds of an issue of its bonds available for financing eligible dwellings located in targeted areas for at least one year following the issuance of a series of bonds. The authority will exercise due diligence in making mortgage loans in targeted areas by advising originating agents and certain localities of the availability of such funds in targeted areas and by advising potential eligible borrowers of the availability of such funds through advertising and/or news releases. The amount, if any, allocated to an originating agent exclusively for targeted areas will be specified in a forward commitment agreement between the originating agent and the authority.

B. Eligibility.

Mortgage loans for eligible dwellings located in targeted areas must comply in all respects with the requirements in this § 2.2 and elsewhere in this guide for all mortgage loans, except for the three-year requirement described in § 2.2.1 B. Notwithstanding this exception, the applicant must still submit certain federal income tax records. However, they will be used to verify income and to verify that previously owned residences have not been primarily used in a trade or business (and not to verify nonhomeownership), and only those records for the most recent year preceding execution of the mortgage documents (rather than the three most recent years) are required. See that section for the specific type of records to be submitted.

1. Definition of targeted areas.

a. A targeted area is an area which is a qualified census tract, as described in b below, or an area of chronic economic distress, as described in c below.

b. A qualified census tract is a census tract in the Commonwealth in which 70% or more of the families have an income of 80% or less of the state-wide median family income based on the most recent "safe harbor" statistics published by the U.S. Treasury.

c. An area of chronic economic distress is an area

designated as such by the Commonwealth and approved by the Secretaries of Housing and Urban Development and the Treasury under criteria specified in the tax code. PDS agents will be informed by the authority as to the location of areas so designated.

§ 2.3. Sales price limits.

The authority's maximum allowable sales price for loans for which reservations are taken by the authority before March 16, 1994, shall be as follows:

Area	New Construction	Existing and Substantial Rehab.
1. Washington DC-MD-VA MSA ¹		
"inner areas"	\$131,790	\$131,790
"outer areas"	\$124,875	\$124,875
2. Norfolk-Va. Beach-Newport News MSA ²	\$ 81,500	\$ 81,500
3. Richmond-Petersburg MSA ³	\$ 79,500	\$ 79,500
4. Charlottesville MSA ⁴	\$ 95,450	\$ 79,530
5. Clarke County	\$ 90,250	\$ 79,530
6. Culpeper County	\$ 84,050	\$ 79,530
7. Fauquier County	\$101,670	\$ 79,530
8. Frederick County and Winchester City	\$ 92,150	\$ 79,530
9. Isle of Wight County	\$ 81,500	\$ 79,530
10. King George County	\$ 89,300	\$ 79,530
11. Madison County	\$ 76,000	\$ 76,000
12. Orange County	\$ 77,900	\$ 77,900
13. Spotsylvania County and Fredericksburg City	\$102,700	\$ 79,530
14. Warren County	\$ 83,600	\$ 79,530
15. Balance of State ⁵	\$ 75,500	\$ 75,500

¹ Washington DC-Maryland-Virginia MSA. Virginia Portion: "Inner Areas" - Alexandria City, Arlington County, Fairfax City, Fairfax County, Falls Church City; "Outer Areas" - Loudoun County, Manassas City, Manassas Park City, Prince William County, Stafford County.

² Norfolk-Virginia Beach-Newport News MSA. Chesapeake City, Gloucester County, Hampton City, James City County, Newport News City, Norfolk City, Poquoson City, Portsmouth City, Suffolk City, Virginia Beach City, Williamsburg City, York County.

³ Richmond-Petersburg MSA. Charles City County, Chesterfield County, Colonial Heights City, Dinwiddie County, Goochland County, Hanover County, Henrico County, Hopewell City, New Kent County, Petersburg City, Powhatan County, Prince George County, Richmond City.

⁴ Charlottesville MSA. Albemarle County, Charlottesville City, Fluvanna County, Greene County.

⁵ Balance of State. All areas not listed above.

The executive director may from time to time waive the foregoing maximum allowable sales prices with respect to such mortgage loans as he may designate if he determines that such waiver will enable the authority to assist the state in achieving its economic and housing goals and

policies, provided that, in the event of any such waiver, the sales price of the residences to be financed by any mortgage loans so designated shall not exceed the applicable limits imposed by the U.S. Department of the Treasury pursuant to the federal tax code or such lesser limits as the executive director may establish. Any such waiver shall not apply upon the assumption of such mortgage loans.

The authority's maximum allowable sales price for loans for which reservations are taken by the authority on or after March 16, 1994, shall be 95% of the applicable maximum purchase prices (except that the maximum allowable sales price for targeted area residences shall be the same as are established for nontargeted residences) permitted or approved by the U.S. Department of the Treasury pursuant to the federal tax code. The authority shall from time to time inform its originating agents and servicing agents by written notification thereto of the dollar amounts of the foregoing maximum allowable sales prices for each area of the state. Any changes in the dollar amounts of such maximum allowable sales prices shall be effective as of such date as the executive director shall determine, and authority is reserved to the executive director to implement any such changes on such date or dates as he shall deem necessary or appropriate to best accomplish the purposes of the program.

§ 2.4. Net worth.

To be eligible for authority financing, an applicant cannot have a net worth exceeding 50% of the sales price of the eligible dwelling. (The value of life insurance policies, retirement plans, furniture and household goods shall not be included in determining net worth.) In addition, the portion of the applicant's liquid assets which are used to make the down payment and to pay closing costs, up to a maximum of 25% of the sale price, will not be included in the net worth calculation.

Any income producing assets needed as a source of income in order to meet the minimum income requirements for an authority loan will not be included in the applicant's net worth for the purpose of determining whether this net worth limitation has been violated.

§ 2.5. Income requirements.

A. Maximum gross family income.

As provided in § 2.2.1 A 6 the gross family income of an applicant for an authority mortgage loan may not exceed the applicable income limitation imposed by the U.S. Department of the Treasury. Because the income limits of the authority imposed by this subsection A apply to all loans to which such federal limits apply and are in all cases below such federal limits, the requirements of § 2.2.1 A 6 are automatically met if an applicant's gross family income does not exceed the applicable limits set forth in this subsection.

For the purposes hereof, the term "gross family income" means the combined annualized gross income of all persons residing or intending to reside in a dwelling unit, from whatever source derived and before taxes or withholdings. For the purpose of this definition, annualized gross income means gross monthly income multiplied by 12. "Gross monthly income" is, in turn, the sum of monthly gross pay plus any additional income from overtime, part-time employment, bonuses, dividends, interest, royalties, pensions, Veterans Administration compensation, net rental income plus other income (such as alimony, child support, public assistance, sick pay, social security benefits, unemployment compensation, income received from trusts, and income received from business activities or investments).

1. For reservations made before March 16, 1994. For reservations made before March 16, 1994, the maximum gross family incomes for eligible borrowers shall be determined or set forth as follows:

The maximum gross family incomes set forth in this paragraph shall be applicable only to loans for which reservations are taken by the authority before March 16, 1994, except loans to be guaranteed by the Farmers Home Administration ("FmHA").

The maximum gross family income for each borrower shall be a percentage (based on family size the number of persons to occupy the dwelling upon financing of the mortgage loan) of the applicable median family income (as defined in Section 143(f)(4) of the Internal Revenue Code of 1986, as amended) as follows:

Family Size Number of Persons to Occupy Dwelling	Percentage of applicable median family income (regardless of whether residence is new construction, existing or substantially rehabilitated)
1 person	70%
2 persons	85%
3 or more persons	100%

The authority shall from time to time inform its originating agents and servicing agents by written notification thereto of the foregoing maximum gross family income limits expressed in dollar amounts for each area of the state, as established by the executive director, and each family size the number of persons to occupy the dwelling. Any changes in the dollar amounts of such income limits shall be effective as of such date as the executive director shall determine, and authority is reserved to the executive director to implement any such changes on such date or dates as he shall deem necessary or appropriate to best accomplish the purposes of the program.

Final Regulations

The executive director may from time to time waive the foregoing income limits with respect to such mortgage loans as he may designate if he determines that such waiver will enable the authority to assist the state in achieving its economic and housing goals and policies, provided that, in the event of any such waiver, the income of the borrowers to receive any mortgage loans so designated shall not exceed the applicable limits imposed by the U.S. Department of the Treasury pursuant to the federal tax code or such lesser limits as the executive director may establish. Any such waiver shall not apply upon the assumption of such mortgage loans.

2. For reservations made on or after March 16, 1994. For reservations made on or after March 16, 1994, the maximum gross ~~family~~ incomes shall be determined or set forth as follows:

The maximum gross ~~family~~ incomes set forth in this subdivision 2 shall be applicable only to loans for which reservations are taken by the authority on or after March 16, 1994, except loans to be guaranteed by the Farmers Home Administration ("FmHA").

The maximum gross ~~family~~ income for each borrower shall be a percentage (based on ~~family size the number of persons expected to occupy the dwelling upon financing of the mortgage loan~~) of the applicable median family income (as defined in Section 143(f)(4) of the Internal Revenue Code of 1986, as amended) (the "median family income") as follows:

Family Size Number of Persons to Occupy Dwelling	Percentage of applicable median family income (regardless of whether residence is new construction, existing or substantially rehabilitated)
2 or fewer persons	85%
3 or more persons	100%

The executive director may from time to time establish maximum gross ~~family~~ incomes equal to the following percentages of applicable median family income (as so defined) with respect to such mortgage loans as he may designate on which the interest rate has been reduced due to financial support by the authority:

Family Size Number of Persons to Occupy Dwelling	Percentage of applicable median family income (regardless of whether residence is new construction, existing or substantially rehabilitated)
2 or fewer persons	65%
3 or more persons	80%

The executive director may from time to time establish maximum gross ~~family~~ incomes equal to the following percentages of applicable median family income (as so defined) with respect to such mortgage loans as he may designate if he determines that such maximum gross family incomes will enable the authority to assist the state in achieving its economic and housing goals and policies:

Family Size Number of Persons to Occupy Dwelling	Percentage of applicable median family income (regardless of whether residence is new construction, existing or substantially rehabilitated)
2 or fewer persons	95%
3 or more persons	110%

The authority shall from time to time inform its originating agents and servicing agents by written notification thereto of the foregoing maximum gross ~~family~~ income limits under this subdivision 2 expressed in dollar amounts for each area of the state, as established by the executive director, and ~~each family size the number of persons to occupy the dwelling~~. Any changes to the dollar amounts of such income limits shall be effective as of such date as the executive director shall determine, and authority is reserved to the executive director to implement any such changes on such date or dates as he shall deem necessary or appropriate to best accomplish the purposes of the program.

3. For loans guaranteed by FmHA.

With respect to a loan to be guaranteed by FmHA, the maximum ~~family~~ income for each borrower shall be the lesser of the maximum gross ~~family~~ income as determined in accordance with § 2.5 A 1 or 2 or FmHA income limits in effect at the time of the application.

B. Minimum income (not applicable to applicants for loans to be insured or guaranteed by the Federal Housing Administration, the Veterans Administration or FmHA (hereinafter referred to as "FHA, VA or FmHA loans")).

An applicant satisfies the authority's minimum income requirement for financing if the monthly principal and interest (at the rate determined by the authority), tax, insurance ("PITI") and other additional monthly fees such as condominium assessments (60% of the monthly condominium assessment shall be added to the PITI figure), townhouse assessments, etc. do not exceed 32% of monthly gross income and if the monthly PITI plus outstanding monthly debt payments with more than six months duration (and payments on debts lasting less than six months, if making such payments will adversely affect the applicant's ability to make mortgage loan payments during the months following loan closing) do not exceed

40% of monthly gross income (see Exhibit B). However, with respect to those mortgage loans on which private mortgage insurance is required, the private mortgage insurance company may impose more stringent requirements. If either of the percentages set forth above are exceeded, compensating factors may be used by the authority, in its sole discretion, to approve the mortgage loan.

§ 2.6. Calculation of maximum loan amount.

Single family detached residence and townhouse (fee simple ownership) Maximum of 95% (or, in the case of an FHA, VA or FmHA loan, such other percentage as may be permitted by FHA, VA or FmHA) of the lesser of the sales price or appraised value, except as may otherwise be approved by the authority.

Condominiums - Maximum of 95% (or, in the case of an FHA, VA or FmHA loan, such other percentage as may be permitted by FHA, VA or FmHA) of the lesser of the sales price or appraised value, except as may be otherwise approved by the authority.

For the purpose of the above calculations, the value of personal property to be conveyed with the residence shall be deducted from the sales price. (See Exhibit R for examples of personal property.) The value of personal property included in the appraisal shall not be deducted from the appraised value.

In the case of an FHA, VA or FmHA loan, the FHA, VA or FmHA insurance fees or guarantee fees charged in connection with such loan (and, if an FHA loan, the FHA permitted closing costs as well) may be included in the calculation of the maximum loan amount in accordance with applicable FHA, VA or FmHA requirements; provided, however, that in no event shall this revised maximum loan amount which includes such fees and closing costs be permitted to exceed the authority's maximum allowable sales price limits set forth herein.

§ 2.7. Mortgage insurance requirements.

Unless the loan is an FHA, VA or FmHA loan, the borrower is required to purchase at time of loan closing full private mortgage insurance (25% to 100% coverage, as the authority shall determine) on each loan the amount of which exceeds 80% of the lesser of sales price or appraised value of the property to be financed. Such insurance shall be issued by a company acceptable to the authority. The originating agent is required to escrow for annual payment of mortgage insurance. If the authority requires FHA, VA or FmHA insurance or guarantee, the loan will either, at the election of the authority, (a) be closed in the authority's name in accordance with the procedures and requirements herein or (b) be closed in the originating agent's name and purchased by the authority once the FHA Certificate of Insurance, VA Guaranty or FmHA Guarantee has been obtained. In the event that the authority purchases an FHA or, VA or

FmHA loan, the originating agent must enter into a purchase and sale agreement on such form as shall be provided by the authority. For assumptions of conventional loans (i.e., loans other than FHA, VA or FmHA loans), full private mortgage insurance as described above is required unless waived by the authority.

§ 2.8. Underwriting.

A. Conventional loans.

The following requirements must be met in order to satisfy the authority's underwriting requirements. However, additional or more stringent requirements may be imposed by private mortgage insurance companies with respect to those loans on which private mortgage insurance is required.

1. Employment and income.

a. Length of employment. The applicant must be employed a minimum of six months with present employer. An exception to the six-month requirement can be granted by the authority if it can be determined that the type of work is similar to previous employment and previous employment was of a stable nature.

b. Self-employed applicants. Note: Under the tax code, the residence may not be expected to be used in trade or business. (See § 2.2.1 C Principal residence requirement.) Any self-employed applicant must have a minimum of two years of self-employment with the same company and in the same line of work. In addition, the following information is required at the time of application:

(1) Federal income tax returns for the two most recent tax years.

(2) Balance sheets and profit and loss statements prepared by an independent public accountant.

In determining the income for a self-employed applicant, income will be averaged for the two-year period.

c. Income derived from sources other than primary employment.

(1) Alimony and child support. A copy of the legal document and sufficient proof must be submitted to the authority verifying that alimony and child support are court ordered and are being received. Child support payments for children 15 years or older are not accepted as income in qualifying an applicant for a loan.

(2) Social security and other retirement benefits. Social Security Form No. SSA 2458 must be submitted to verify that applicant is receiving social

Final Regulations

security benefits. Retirement benefits must be verified by receipt or retirement schedules. VA disability benefits must be verified by the VA. Educational benefits and social security benefits for dependents 15 years or older are not accepted as income in qualifying an applicant for a loan.

(3) Part-time employment. Part-time employment must be continuous for a minimum of six months. Employment with different employers is acceptable so long as it has been uninterrupted for a minimum of six months. Part-time employment as used in this section means employment in addition to full-time employment.

Part-time employment as the primary employment will also be required to be continuous for six months.

(4) Overtime, commission and bonus. Overtime earnings must be guaranteed by the employer or verified for a minimum of two years. Bonus and commissions must be reasonably predictable and stable and the applicant's employer must submit evidence that they have been paid on a regular basis and can be expected to be paid in the future.

2. Credit.

a. Credit experience. The authority requires that an applicant's previous credit experience be satisfactory. Poor credit references without an acceptable explanation will cause a loan to be rejected. Satisfactory credit references and history are considered to be important requirements in order to obtain an authority loan.

b. Bankruptcies. An applicant will not be considered for a loan if the applicant has been adjudged bankrupt within the past two years. If longer than two years, the applicant must submit a written explanation giving details surrounding the bankruptcy. The authority has complete discretion to decline a loan when a bankruptcy is involved.

c. Judgments and collections. An applicant is required to submit a written explanation for all judgments and collections. In most cases, judgments and collections must be paid before an applicant will be considered for an authority loan.

3. Appraisals. The authority reserves the right to obtain an independent appraisal in order to establish the fair market value of the property and to determine whether the dwelling is eligible for the mortgage loan requested.

B. FHA loans only.

1. In general. The authority will normally accept FHA underwriting requirements and property standards for

FHA loans. However, most of the authority's basic eligibility requirements including those described in §§ 2.1 through 2.5 hereof remain in effect due to treasury restrictions or authority policy.

2. Mortgage insurance premium. Applicant's mortgage insurance premium fee may be included in the FHA acquisition cost and may be financed provided that the final loan amount does not exceed the authority's maximum allowable sales price. In addition, in the case of a condominium, such fee may not be paid in full in advance but instead is payable in annual installments.

3. Closing fees. The FHA allowable closing fees may be included in the FHA acquisition cost and may be financed provided the final loan amount does not exceed the authority's maximum allowable sales price.

4. Appraisals. FHA appraisals are acceptable. VA certificates of reasonable value (CRV's) are acceptable if acceptable to FHA.

C. VA loans only.

1. In general. The authority will normally accept VA underwriting requirements and property guidelines for VA loans. However, most of the authority's basic eligibility requirements (including those described in §§ 2.1 through 2.5 hereof) remain in effect due to treasury restrictions or authority policy.

2. VA funding fee. The funding fee can be included in loan amount provided the final loan amount does not exceed the authority's maximum allowable sales price.

3. Appraisals. VA certificates of reasonable value (CRV's) are acceptable.

D. FmHA loans only.

1. In general. The authority will normally accept FmHA underwriting requirements and property standards for FmHA loans. However, most of the authority's basic eligibility requirements including those described in §§ 2.1 through 2.5 hereof remain in effect due to treasury restrictions or authority policy.

2. Guarantee fee. The FmHA guarantee fee can be included in loan amount provided the final loan amount does not exceed the authority's maximum allowable sales price.

E. FHA and VA buydown program.

With respect to FHA and VA loans, the authority permits the deposit of a sum of money (the "buydown funds") by a party (the "provider") with an escrow agent, a portion of which funds are to be paid to the authority each month in order to reduce the amount of the borrower's monthly payment during a certain period of time. Such

arrangement is governed by an escrow agreement for buydown mortgage loans (see Exhibit V) executed at closing (see § 2.14 for additional information). The escrow agent will be required to sign a certification (Exhibit X) in order to satisfy certain FHA requirements. For the purposes of underwriting buydown mortgage loans, the reduced monthly payment amount may be taken into account based on FHA guidelines then in effect (see also subsection B or C above, as applicable).

F. Interest rate buydown program.

Unlike the program described in subsection E above which permits a direct buydown of the borrower's monthly payment, the authority also from time to time permits the buydown of the interest rate on a conventional, FHA or VA mortgage loan for a specified period of time.

§ 2.9. Funds necessary to close.

A. Cash (Not applicable to FHA, VA or FmHA loans).

Funds necessary to pay the downpayment and closing costs must be deposited at the time of loan application. The authority does not permit the applicant to borrow funds for this purpose, except where (i) the loan amount is less than or equal to 80% of the lesser of the sales price or the appraised value, or (ii) the loan amount exceeds 80% of the lesser of the sales price or the appraised value and the applicant borrows a portion of the funds under a loan program approved by the authority or from their employer, with the approval of the private mortgage insurer, and the applicant pays in cash from their own funds an amount equal to at least 3.0% of the lesser of the sales price or the appraised value. If the funds are being held in an escrow account by the real estate broker, builder or closing attorney, the source of the funds must be verified. A verification of deposit from the parties other than financial institutions authorized to handle deposited funds is not acceptable.

B. Gift letters.

A gift letter is required when an applicant proposes to obtain funds as a gift from a third party. The gift letter must confirm that there is no obligation on the part of the borrower to repay the funds at any time. The party making the gift must submit proof that the funds are available. This proof should be in the form of a verification of deposit.

C. Housing expenses.

Proposed monthly housing expenses compared to current monthly housing expenses will be reviewed carefully to determine if there is a substantial increase. If there is a substantial increase, the applicant must demonstrate his ability to pay the additional expenses.

§ 2.10. Loan assumptions.

A. Requirements for assumptions.

VHDA currently permits assumptions of all of its single family mortgage loans provided that certain requirements are met. For all loans closed prior to January 1, 1991, except FHA loans which were closed during calendar year 1990, the maximum gross family income for ~~these the~~ *person or household* assuming a loan shall be 100% of the applicable median family income. For such FHA loans closed during 1990, if assumed by a household of three or more persons, the maximum gross family income shall be 115% of the applicable median family income (140% for a residence in a targeted area) and if assumed by a *person* or a household of less than three persons, the maximum gross family income shall be 100% of the applicable median family income (120% for a residence in a targeted area). For all loans closed after January 1, 1991, the maximum gross family income for ~~these the person or household~~ *person or household* assuming loans shall be the highest percentage, as then in effect under § 2.5 A 2, of applicable median family income for ~~the size of the family assuming the loan the number or persons to occupy the dwelling upon assumption of the mortgage loan~~, unless otherwise provided in the deed of trust. The requirements for each of the two different categories of mortgage loans listed below (and the subcategories within each) are as follows:

1. Assumptions of conventional loans.

a. For assumptions of conventional loans financed by the proceeds of bonds issued on or after December 17, 1981, the requirements of the following sections hereof must be met:

- (1) Maximum gross family income requirement in this § 2.10 A
- (2) § 2.2.1 C (Principal residence requirement)
- (3) § 2.8 (Authority underwriting requirements)
- (4) § 2.2.1 B (Three-year requirement)
- (5) § 2.2.2 B (Acquisition cost requirements)
- (6) § 2.7 (Mortgage insurance requirements).

b. For assumptions of conventional loans financed by the proceeds of bonds issued prior to December 17, 1981, the requirements of the following sections hereof must be met:

- (1) Maximum gross family income requirement in this § 2.10 A
- (2) § 2.2.1 C (Principal residence requirements)
- (3) § 2.8 (Authority underwriting requirements)
- (4) § 2.7 (Mortgage insurance requirements).

Final Regulations

2. Assumptions of FHA, VA or FmHA loans.

a. For assumptions of FHA, VA or FmHA loans financed by the proceeds of bonds issued on or after December 17, 1981, the following conditions must be met:

- (1) Maximum gross family income requirement in this § 2.10 A
- (2) § 2.2.1 C (Principal residence requirement)
- (3) § 2.2.1 B (Three-year requirement)
- (4) § 2.2.2 B (Acquisition cost requirements).

In addition, all applicable FHA, VA or FmHA underwriting requirements, if any, must be met.

b. For assumptions of FHA, VA or FmHA loans financed by the proceeds of bonds issued prior to December 17, 1981, only the applicable FHA, VA or FmHA underwriting requirements, if any, must be met.

B. Review by the authority/additional requirements.

Upon receipt from an originating agent or servicing agent of an application package for an assumption, the authority will determine whether or not the applicable requirements referenced above for assumption of the loan have been met and will advise the originating agent or servicing agent of such determination in writing. The authority will further advise the originating agent or servicing agent of all other requirements necessary to complete the assumption process. Such requirements may include but are not limited to the submission of satisfactory evidence of hazard insurance coverage on the property, approval of the deed of assumption, satisfactory evidence of mortgage insurance or mortgage guaranty including, if applicable, pool insurance, submission of an escrow transfer letter and execution of a Recapture Requirement Notice (VHDA Doc. R-1).

§ 2.11. Leasing, loan term, and owner occupancy.

A. Leasing.

The owner may not lease the property without first contacting the authority.

B. Loan term.

Loan terms may not exceed 30 years.

C. Owner occupancy.

No loan will be made unless the residence is to be occupied by the owner as the owner's principal residence.

§ 2.12. Reservations/fees.

A. Making a reservation.

The authority currently reserves funds for each mortgage loan on a first come, first serve basis. Reservations are made by specific originating agents or field originators with respect to specific applicants and properties. No substitutions are permitted. Similarly, locked-in interest rates are also nontransferable. Funds will not be reserved longer than 60 days unless the originating agent requests and receives an additional one-time extension prior to the 60-day deadline. Locked-in interest rates on all loans, including those on which there may be a VA Guaranty, cannot be reduced under any circumstances.

B. More than one reservation.

An applicant, including an applicant for a loan to be guaranteed by VA, may request a second reservation if the first has expired or has been cancelled. If the second reservation is made within 12 months of the date of the original reservation, the interest rate will be the greater of (i) the locked-in rate or (ii) the current rate offered by the authority at the time of the second reservation.

C. The reservation fee.

The originating agent or field originator shall collect and remit to the authority a nonrefundable reservation fee in such amount and according to such procedures as the authority may require from time to time. Under no circumstances is this fee refundable. A second reservation fee must be collected for a second reservation. No substitutions of applicants or properties are permitted.

D. Other fees.

1. Origination fee. In connection with the origination and closing of the loan, the originating agent shall collect an amount equal to 1.0% of the loan amount (please note that for FHA loans the loan amount for the purpose of this computation is the base loan amount only). If the loan does not close and the failure to close is not due to the fault of the applicant, then the origination fee shall be waived.

2. Discount point. The originating agent shall collect from the seller at the time of closing an amount equal to 1.0% of the loan amount.

§ 2.13. Commitment. (Exhibit J)

A. In general.

Upon approval of the applicant, the authority will send a mortgage loan commitment to the borrower in care of the originating agent. (For FmHA loans, upon approval of the applicant, the authority will submit the credit package to FmHA and upon receipt of the FmHA conditional commitment, will send the mortgage loan commitment.) Also enclosed in the commitment package will be other

documents necessary for closing. The originating agent shall ask the borrower to indicate his acceptance of the mortgage loan commitment by signing and returning it to the originating agent within 15 days after the date of the commitment.

A commitment must be issued in writing by an authorized officer of the authority and signed by the applicant before a loan may be closed. The term of a commitment may be extended in certain cases upon written request by the applicant and approved by the authority. If an additional commitment is issued to an applicant, the interest rate may be higher than the rate offered in the original commitment. Such new rate and the availability of funds therefor shall in all cases be determined by the authority in its discretion.

B. Loan rejection.

If the application fails to meet any of the standards, criteria and requirements herein, a loan rejection letter will be issued by the authority (see Exhibit L). In order to have the application reconsidered, the applicant must resubmit the application within 30 days after loan rejection. If the application is so resubmitted, the credit documentation cannot be more than 90 days old and the appraisal not more than six months old.

§ 2.14. Buy-down points.

Special note regarding checks for buy-down points (this applies to both the monthly payment buydown program described in § 2.8 D above and the interest rate buydown program described in § 2.8 E). A certified or cashier's check made payable to the authority is to be provided at loan closing for buy-down points, if any. Under the tax code, the original proceeds of a bond issue may not exceed the amount necessary for the "governmental purpose" thereof by more than 5.0%. If buy-down points are paid out of mortgage loan proceeds (which are financed by bonds), then this federal regulation is violated because bond proceeds have in effect been used to pay debt service rather than for the proper "governmental purpose" of making mortgage loans. Therefore, it is required that buy-down fees be paid from the seller's own funds and not be deducted from loan proceeds. Because of this requirement, buy-down funds may not appear as a deduction from the seller's proceeds on the HUD-1 Settlement Statement.

§ 2.15. Property guidelines.

A. In general.

For each application the authority must make the determination that the property will constitute adequate security for the loan. That determination shall in turn be based solely upon a real estate appraisal's determination of the value and condition of the property.

In addition, manufactured housing (mobile homes), both

new construction and certain existing, may be financed only if the loan is insured 100% by FHA (see subsection C).

B. Conventional loans.

1. Existing housing and new construction. The following requirements apply to both new construction and existing housing to be financed by a conventional loan: (i) all property must be located on a state maintained road; provided, however, that the authority may, on a case-by-case basis, approve financing of property located on a private road acceptable to the authority if the right to use such private road is granted to the owner of the residence pursuant to a recorded right-of-way agreement providing for the use of such private road and a recorded maintenance agreement provides for the maintenance of such private road on terms and conditions acceptable to the authority (any other easements or rights-of-way to state maintained roads are not acceptable as access to properties); (ii) any easements which will adversely affect the marketability of the property, such as high-tension power lines, drainage or other utility easements will be considered on a case-by-case basis to determine whether such easements will be acceptable to the authority; (iii) property with available water and sewer hookups must utilize them; and (iv) property without available water and sewer hookups may have their own well and septic system; provided that joint ownership of a well and septic system will be considered on a case-by-case basis to determine whether such ownership is acceptable to the authority.

2. Additional requirements for new construction. New construction financed by a conventional loan must also meet Uniform Statewide Building Code and local code.

C. FHA, VA or FmHA loans.

1. Existing housing and new construction. Both new construction and existing housing financed by an FHA, VA or FmHA loan must meet all applicable requirements imposed by FHA, VA or FmHA.

2. Additional requirements for new construction. If such homes being financed by FHA loans are new manufactured housing they must meet federal manufactured home construction and safety standards, satisfy all FHA insurance requirements, be on a permanent foundation to be enclosed by a perimeter masonry curtain wall conforming to standards of the Uniform Statewide Building Code, be permanently affixed to the site owned by the borrowers and be insured 100% by FHA under its section 203B program. In addition, the property must be classified and taxed as real estate and no personal property may be financed.

§ 2.16. Substantially rehabilitated.

Final Regulations

For the purpose of qualifying as substantially rehabilitated housing under the authority's maximum sales price limitations, the housing unit must meet the following definitions:

1. Substantially rehabilitated means improved to a condition which meets the authority's underwriting/property standard requirements from a condition requiring more than routine or minor repairs or improvements to meet such requirements. The term includes repairs or improvements varying in degree from gutting and extensive reconstruction to cosmetic improvements which are coupled with the cure of a substantial accumulation of deferred maintenance, but does not mean cosmetic improvements alone.

2. For these purposes a substantially rehabilitated housing unit means a dwelling unit which has been substantially rehabilitated and which is being offered for sale and occupancy for the first time since such rehabilitation. The value of the rehabilitation must equal at least 25% of the total value of the rehabilitated housing unit.

3. The authority's staff will inspect each house submitted as substantially rehabilitated to ensure compliance with our underwriting-property standards. An appraisal is to be submitted after the authority's inspection and is to list the improvements and estimate their value.

4. The authority will only approve rehabilitation loans to eligible borrowers who will be the first resident of the residence after the completion of the rehabilitation. As a result of the tax code, the proceeds of the mortgage loan cannot be used to refinance an existing mortgage, as explained in § 2.2 1 D (New mortgage requirement). The authority will approve loans to cover the purchase of a residence, including the rehabilitation:

a. Where the eligible borrower is acquiring a residence from a builder or other seller who has performed a substantial rehabilitation of the residence; and

b. Where the eligible borrower is acquiring an unrehabilitated residence from the seller and the eligible borrower contracts with others to perform a substantial rehabilitation or performs the rehabilitation work himself prior to occupancy.

§ 2.17. Condominium requirements.

A. Conventional loans.

The originating agent must provide evidence that the condominium is approved by any two of the following: FNMA, FHLMC or VA. The originating agent must submit evidence at the time the borrower's application is submitted to the authority for approval.

B. FHA, VA or FmHA loans.

The authority will accept a loan to finance a condominium if the condominium is approved by FHA, in the case of an FHA loan, by VA, in the case of a VA loan or by FmHA, in the case of an FmHA loan.

§ 2.18. FHA plus program.

A. In general.

Notwithstanding anything to the contrary herein, the authority may make loans secured by second deed of trust liens ("second loans") to provide downpayment and closing cost assistance to eligible borrowers who are obtaining FHA loans secured by first deed of trust liens. Second loans shall not be available to a borrower if the FHA loan is being made under the FHA buydown program or is subject to a step adjustment in the interest rate thereon or is subject to a reduced interest rate due to the financial support of the authority.

B. Mortgage insurance requirements.

The second loans shall not be insured by mortgage insurance; accordingly, the requirements of § 2.7 regarding mortgage insurance shall not be applicable to the second loan.

C. Maximum loan amount.

The requirements of § 2.6 regarding calculation of maximum loan amount shall not be applicable to the second loan. In order to be eligible for a second loan, the borrower must obtain an FHA loan for the maximum loan amount permitted by FHA. The second loan shall be for the lesser of:

1. The lesser of sales price or appraised value plus FHA allowable closing fees (i.e., fees which FHA permits to be included in the FHA acquisition cost and to be financed) minus the FHA maximum base loan amount, seller paid closing costs and 1.0% of the sales price, or

2. 3.0% of the lesser of the sales price or appraised value plus \$1,100.

In no event shall the combined FHA loan and the second loan amount exceed the authority's maximum allowable sales price.

D. Underwriting.

With respect to underwriting, no additional requirements or criteria other than those applicable to the FHA loan shall be imposed on the second loan.

E. Assumptions.

The second mortgage loan shall be assumable on the

same terms and conditions as the FHA loan.

F. Fees.

No origination fee or discount point shall be collected on the second loan.

G. Commitment.

Upon approval of the applicant, the authority will issue a mortgage loan commitment pursuant to § 2.13. The mortgage loan commitment will include the terms and conditions of the FHA loan and the second loan and an addendum setting forth additional terms and conditions applicable to the second loan. Also enclosed in the commitment package will be other documents necessary to close the second loan.

NOTE: Documents and forms referred to herein as Exhibits have not been adopted by the authority as a part of the rules and regulations for single family mortgage loans to persons and ~~families~~ households of low and moderate income but are attached thereto for reference and informational purposes. Accordingly, such documents and forms have not been included in the foregoing rules and regulations for single family mortgage loans to persons and ~~families~~ households of low and moderate income. Copies of such documents and forms are available upon request at the offices of the authority.

VA.R. Doc. No. R94-1070; Filed June 21, 1994, 4:05 p.m.

BOARD OF SOCIAL WORK

Title of Regulation: VR 620-01-3. Public Participation Guidelines.

Statutory Authority: §§ 9-6.14:7.1, 54.1-2400 and 54.1-3700 et seq. of the Code of Virginia.

Effective Date: August 10, 1994.

Summary:

Part I sets forth the purpose of guidelines for public participation in the development and promulgation of regulations and establishes the definitions of terms used in the regulation. Part II establishes the composition of the mailing list and the process for adding or deleting names from that list. It also lists the documents to be sent to persons on the mailing list. Part III sets forth the requirements and procedures for a petition for rulemaking, for the issuance of notices, and for the conduct of a public hearing and biennial review of regulations. Part IV establishes the requirements and criteria for the appointment of advisory committees in the development of regulations and for the terms and conditions of service.

Summary of Public Comment and Agency Response: No public comment was received by the promulgating agency.

Agency Contact: Copies of the regulation may be obtained from Evelyn B. Brown, Executive Director, Board of Social Work, 6606 West Broad Street, Richmond, VA 23230-1717, telephone (804) 662-9914. There may be a charge for copies.

VR 620-01-3. Public Participation Guidelines.

PART I. GENERAL PROVISIONS.

§ 1.1. Purpose.

The purpose of these regulations is to provide guidelines for the involvement of the public in the development and promulgation of regulations of the Board of Social Work. The guidelines do not apply to regulations exempted or excluded from the provisions of the Administrative Process Act (§ 9-6.14:4.1 of the Code of Virginia).

§ 1.2. Definitions.

The following words and terms, when used in this regulation, shall have the following meaning unless the context clearly indicates otherwise:

"Administrative Process Act" means Chapter 1.1:1 (§ 9-6.14:1 et seq.) of Title 9 of the Code of Virginia.

"Board" means the Board of Social Work.

"Person" means an individual, a corporation, a partnership, an association, a governmental body, a municipal corporation, or any other legal entity.

PART II. MAILING LIST.

§ 2.1. Composition of the mailing list.

A. The board shall maintain a list of persons or entities who have requested to be notified of the formation and promulgation of regulations.

B. Any person or entity may request to be placed on the mailing list by indicating so in writing to the board. The board may add to the list any person or entity it believes will serve the purpose of enhancing participation in the regulatory process.

C. The board may maintain additional mailing lists for persons or entities who have requested to be informed of specific regulatory issues, proposals, or actions.

D. The board shall periodically request those on the mailing list to indicate their desire to continue to receive documents or be deleted from the list. When mail is returned as undeliverable, individuals or organizations

Final Regulations

shall be deleted from the list.

§ 2.2. Documents to be sent to persons or entities on the mailing list.

Persons or entities on the mailing list described in § 2.1 shall be mailed the following documents related to the promulgation of regulations:

1. A Notice of Intended Regulatory Action.
2. A Notice of Comment Period.
3. A copy of any final regulation adopted by the board.
4. A notice soliciting comment on a final regulation when the regulatory process has been extended.

PART III. PUBLIC PARTICIPATION PROCEDURES.

§ 3.1. Petition for rulemaking.

A. As provided in § 9-6.14:7.1 of the Code of Virginia, any person may petition the board to develop a new regulation or amend an existing regulation.

B. A petition shall include but need not be limited to the following:

1. The petitioner's name, mailing address, telephone number, and, if applicable, the organization represented in the petition.
2. The number and title of the regulation to be addressed.
3. A description of the regulatory problem or need to be addressed.
4. A recommended addition, deletion, or amendment to the regulation.

C. The board shall receive, consider and respond to a petition within 180 days.

D. Nothing herein shall prohibit the board from receiving information from the public and proceeding on its own motion for rulemaking.

§ 3.2. Notice of Intended Regulatory Action.

A. The Notice of Intended Regulatory Action (NOIRA) shall state the purpose of the action and a brief statement of the need or problem the proposed action will address.

B. The NOIRA shall indicate whether the board intends to hold a public hearing on the proposed regulation after it is published. If the board does not intend to hold a

public hearing, it shall state the reason in the NOIRA.

C. The NOIRA shall state that a public hearing will be scheduled if, during the 30-day comment period, the board receives requests for a hearing from at least 25 persons.

§ 3.3. Notice of Comment Period.

A. The Notice of Comment Period (NOCP) shall indicate that copies of the proposed regulation are available from the board and may be requested in writing from the contact person specified in the NOCP.

B. The NOCP shall indicate that copies of the statement of substance, issues, basis, purpose, and estimated impact of the proposed regulation may also be requested in writing.

C. The NOCP shall make provision for either oral or written submittals on the proposed regulation or on the impact on regulated entities and the public and on the cost of compliance with the proposed regulation.

§ 3.4. Notice of meeting.

A. At any meeting of the board or advisory committee at which the formation or adoption of regulation is anticipated, the subject shall be described in the Notice of Meeting and transmitted to the Registrar of Regulations for inclusion in The Virginia Register.

B. If the board anticipates action on a regulation for which an exemption to the Administrative Process Act is claimed under § 9-6.14:4.1 of the Code of Virginia, the Notice of Meeting shall indicate that a copy of the regulation is available upon request at least two days prior to the meeting. A copy of the regulation shall be made available to the public attending such meeting.

§ 3.5. Public hearings on regulations.

The board shall conduct a public hearing during the 60-day comment period following the publication of a proposed regulation or amendment to an existing regulation unless, at a noticed meeting, the board determines that a hearing is not required.

§ 3.6. Biennial review of regulations.

A. At least once each biennium, the board shall conduct an informational proceeding to receive comment on all existing regulations as to their effectiveness, efficiency, necessity, clarity, and cost of compliance.

B. Such proceeding may be conducted separately or in conjunction with other informational proceedings or hearings.

C. Notice of the proceeding shall be transmitted to the Registrar of Regulations for inclusion in The Virginia Register and shall be sent to the mailing list identified in

§ 2.1.

PART IV.
ADVISORY COMMITTEES.

§ 4.1. *Appointment of committees.*

A. *The board may appoint an ad hoc advisory committee whose responsibility shall be to assist in the review and development of regulations for the board.*

B. *The board may appoint an ad hoc advisory committee to provide professional specialization or technical assistance when the board determines that such expertise is necessary to address a specific regulatory issue or need or when groups of individuals register an interest in working with the agency.*

§ 4.2. *Limitation of service.*

A. *An advisory committee which has been appointed by the board may be dissolved by the board when:*

- 1. There is no response to the Notice of Intended Regulatory Action, or*
- 2. The board determines that the promulgation of the regulation is either exempt or excluded from the requirements of the Administrative Process Act (§ 9-6.14:4.1 of the Code of Virginia).*

B. *An advisory committee shall remain in existence no longer than 12 months from its initial appointment.*

- 1. If the board determines that the specific regulatory need continues to exist beyond that time, it shall set a specific term for the committee of not more than six additional months.*
- 2. At the end of that extended term, the board shall evaluate the continued need and may continue the committee for additional six-month terms.*

VA.R. Doc. No. R94-1061; Filed June 15, 1994, 2:02 p.m.

STATE CORPORATION COMMISSION

BUREAU OF INSURANCE

June 2, 1994

Administrative Letter 1994-6

TO: ALL COMPANIES LICENSED TO WRITE PRIVATE
PASSENGER AUTOMOBILE AND/OR HOMEOWNERS
INSURANCE IN VIRGINIA

RE: REVISIONS TO VA CP-12 (6/94), VA CP-19 (6/94)
AND VA CP-20 (6/94)

At this time, we are amending Competitive Pricing
Forms VA CP-12, VA CP-19 and VA CP-20. These forms
replace VA CP-12 (12/90), VA CP-19 (2/93) and VA CP-20
(2/93).

Copies of the revised forms are attached. Insurers
should reproduce these forms for current and future use.

All forms now include three additional territories.

All forms now require the NAIC number.

We have revised VA CP-19 and VA CP-20 to increase
the cost new of an average vehicle from \$12,000 to
\$15,000.

Effective immediately, insurers should submit these
revised forms with each rate filing. The provisions of this
administrative letter replace the provisions of
Administrative Letter 1993-5 issued February 24, 1993.

/s/ Steven T. Foster
Commissioner of Insurance

VAR. Doc. No. R94-1069; Filed June 21, 1994, 9:08 a.m.

COMPANY
NAIC #
VIRGINIA HOMEOWNERS INSURANCE PREMIUMS
RATES EFFECTIVE

TERRITORY/CODE

TOTAL
PREMIUM

Alexandria/

Frame (\$100,000)
Masonry (100,000)

Fairfax County/

Frame (\$100,000)
Masonry (100,000)

Richmond/

Frame (\$100,000)
Masonry (100,000)

Henrico County/

Frame (\$100,000)
Masonry (100,000)

Virginia Beach/

Frame (\$100,000)
Masonry (100,000)

Norfolk/

Frame (\$100,000)
Masonry (100,000)

Roanoke/

Frame (\$100,000)
Masonry (100,000)

Charlotte County/

- Use Protection Class 10

Frame (\$100,000)
Masonry (100,000)

(See Reverse Hereof For Instructions)

VA CP-12 (6/94)

INSTRUCTIONS:

Report **ANNUAL** premiums for the best fire protection class in each territory for coverage under "Special Form (Form 3)" with a \$250 Flat deductible. Dollar amounts in parentheses are "insured for" values. Do not apply any other rating rules or procedures.

Since Charlotte County is representative of a rural risk, report premiums based on Protection Class 10.

The premiums displayed contemplate a Section II Liability Limit of \$100,000 and Medical Payments coverage of \$1,000.

NOTE:

IF THE COMPANY DOES NOT PROVIDE THE SPECIFIC COVERAGE REQUESTED, PLEASE CLEARLY NOTE THIS FACT AND INDICATE THE DIFFERENCES BELOW AND REPORT THE PREMIUM CHARGED FOR THE POLICY MOST NEARLY COMPARABLE TO THE ONE FOR WHICH PREMIUM DATA IS REQUESTED. FOR EXAMPLE, IF THE COMPANY DOES NOT OFFER A \$250 DEDUCTIBLE, REPORT THE PREMIUMS FOR THE MOST COMPARABLE DEDUCTIBLE.

***COMPANY'S EXCEPTIONS:**

Form completed by: _____ Signature

_____ Title

Date Completed: _____

Phone: _____

VA CP-12 (6/94)

COMPANY
NAIC#
VIRGINIA SPECIAL PACKAGE AUTOMOBILE POLICY INSURANCE PREMIUMS
RATES EFFECTIVE

*MODEL YEAR USED _____
OCN/SYMBOL USED _____ / _____

CLASSIFICATION RATING FACTORS	TERRITORY/CODE	SPECIAL PACKAGE AUTOMOBILE POLICY	MEDICAL EXPENSE BENEFITS	UNINSURED/ UNDERINSURED MOTORISTS	COMPREHENSIVE	COLLISION	TOTAL
	<u>Alexandria/</u>						
	Married Adult - Age 45						
	Unmarried Male - Age 20						
	Unmarried Female - Age 20						
	<u>Fairfax County/</u>						
	Married Adult - Age 45						
	Unmarried Male - Age 20						
	Unmarried Female - Age 20						
	<u>Richmond/</u>						
	Married Adult - Age 45						
	Unmarried Male - Age 20						
	Unmarried Female - Age 20						
	<u>Henrico County/</u>						
	Married Adult - Age 45						
	Unmarried Male - Age 20						
	Unmarried Female - Age 20						
	<u>Virginia Beach/</u>						
	Married Adult - Age 45						
	Unmarried Male - Age 20						
	Unmarried Female - Age 20						
	<u>Norfolk/</u>						
	Married Adult - Age 45						
	Unmarried Male - Age 20						
	Unmarried Female - Age 20						
	<u>Roanoke/</u>						
	Married Adult - Age 45						
	Unmarried Male - Age 20						
	Unmarried Female - Age 20						
	<u>Charlotte County/</u>						
	Married Adult - Age 45						
	Unmarried Male - Age 20						
	Unmarried Female - Age 20						

(See Reverse Hereof For Instructions)
(Complete Both Sides)

*Use current model year. (Remember, model year changes October 1 to the next year. Any exception to the October 1 model year change should be clearly noted.)

VA CP-19 (6/94)

INSTRUCTIONS:

Report ANNUAL premiums for minimum Special Package Automobile Policy liability coverage required by Virginia's financial responsibility laws; i. e. , SPAP - \$70,000 Single Limit with \$2,000 Medical Expense Benefits and \$1,000 Death Benefit and Uninsured/Underinsured Motorists coverage at minimum limits. Report ANNUAL Special Package Automobile Policy physical damage premiums for a new, standard performance class car (OCN \$16,000, Age Group 1; i.e., Chevrolet Corsica 4 Door Sedan). Report Comprehensive premiums with a \$50 deductible. Report Collision premiums with a \$100 deductible.

Report premiums for risks who are owners or principal operators, who are accident and conviction free for the preceding three years, who have had driver training, who do not use their vehicles for business, who drive 12,000 miles a year and who drive to or from work 9 miles each way. (Report the married adult premiums for a risk whose vehicle is customarily operated by no one other than the named insured or spouse.) Do not apply any other rating rules or procedures.

NOTE:

1. IF THE COMPANY DOES NOT PROVIDE THE SPECIFIC COVERAGE REQUESTED, PLEASE CLEARLY NOTE THIS FACT BELOW AND REPORT THE PREMIUM CHARGED FOR THE POLICY MOST NEARLY COMPARABLE TO THE ONE FOR WHICH PREMIUM DATA IS REQUESTED. FOR EXAMPLE, IF THE COMPANY DOES NOT OFFER A \$50 DEDUCTIBLE COMPREHENSIVE, REPORT THE PREMIUMS FOR THE MOST COMPARABLE DEDUCTIBLE.
2. INCLUDE, BY SEPARATE ATTACHMENT, A SPECIFIC EXAMPLE OF THE METHOD OF CALCULATION USED TO COMPUTE THE PREMIUMS FOR EACH COVERAGE. THE EXAMPLE SHOULD INCLUDE ALL THE STEPS NECESSARY TO COMPUTE THE FINAL PREMIUM, SUCH AS ROUNDING, APPLICATION OF FACTORS, ETC.

***COMPANY'S EXCEPTIONS:**

Form completed by: _____ Signature
 _____ Title

Date Completed: _____
 Phone: _____

COMPANY
NAIC #
VIRGINIA PRIVATE PASSENGER AUTOMOBILE POLICY INSURANCE PREMIUMS
RATES EFFECTIVE

*MODEL YEAR USED _____
OCN/SYMBOL USED _____

CLASSIFICATION RATING FACTORS	TERRITORY/CODE	BODILY INJURY	PROPERTY DAMAGE	MEDICAL EXPENSE BENEFITS	UNINSURED/ UNDERINSURED MOTORISTS	COMPREHENSIVE	COLLISION	TOTAL
	<u>Alexandria/</u>							
	Married Adult - Age 45							
	Unmarried Male - Age 20							
	Unmarried Female - Age 20							
	<u>Fairfax County/</u>							
	Married Adult - Age 45							
	Unmarried Male - Age 20							
	Unmarried Female - Age 20							
	<u>Richmond/</u>							
	Married Adult - Age 45							
	Unmarried Male - Age 20							
	Unmarried Female - Age 20							
	<u>Henrico County/</u>							
	Married Adult - Age 45							
	Unmarried Male - Age 20							
	Unmarried Female - Age 20							
	<u>Virginia Beach/</u>							
	Married Adult - Age 45							
	Unmarried Male - Age 20							
	Unmarried Female - Age 20							
	<u>Norfolk/</u>							
	Married Adult - Age 45							
	Unmarried Male - Age 20							
	Unmarried Female - Age 20							
	<u>Roanoke/</u>							
	Married Adult - Age 45							
	Unmarried Male - Age 20							
	Unmarried Female - Age 20							
	<u>Charlotte County/</u>							
	Married Adult - Age 45							
	Unmarried Male - Age 20							
	Unmarried Female - Age 20							

(See Reverse Hereof For Instructions)
(Complete Both Sides)

*Use current model year. (Remember, model year changes October 1 to the next year. Any exception to the October 1 model year change should be clearly noted.)

VA CP-20 (6/94)

INSTRUCTIONS:

Report ANNUAL premiums for minimum liability coverage required by Virginia's financial responsibility laws; i.e., Bodily Injury limits of \$25,000/\$50,000, Property Damage limits of \$20,000, Uninsured/Underinsured Motorists coverage at minimum limits and Medical Expense Benefits coverage of \$2,000. Report ANNUAL physical damage premiums for a new, standard performance class car (OCN \$15,000, Age Group 1; i.e., Chevrolet Corsica 4 Door Sedan). Report Comprehensive premiums with a \$50 deductible. Report Collision premiums with a \$100 deductible.

Report premiums for risks who are owners or principal operators, who are accident and conviction free for the preceding three years, who have had driver training, who do not use their vehicles for business, who drive 12,000 miles a year and who drive to or from work 9 miles each way. (Report the married adult premiums for a risk whose vehicle is customarily operated by no one other than the named insured or spouse.) Do not apply any other rating rules or procedures.

NOTE:

1. IF THE COMPANY DOES NOT PROVIDE THE SPECIFIC COVERAGE REQUESTED, PLEASE CLEARLY NOTE THIS FACT BELOW* AND REPORT THE PREMIUM CHARGED FOR THE POLICY MOST NEARLY COMPARABLE TO THE ONE FOR WHICH PREMIUM DATA IS REQUESTED. FOR EXAMPLE, IF THE COMPANY DOES NOT OFFER A \$50 DEDUCTIBLE COMPREHENSIVE OR MINIMUM LIABILITY COVERAGE, REPORT THE PREMIUMS FOR THE MOST COMPARABLE DEDUCTIBLE OR LIMIT.
2. INCLUDE, BY SEPARATE ATTACHMENT, A SPECIFIC EXAMPLE OF THE METHOD OF CALCULATION USED TO COMPUTE THE PREMIUMS FOR EACH COVERAGE. THE EXAMPLE SHOULD INCLUDE ALL THE STEPS NECESSARY TO COMPUTE THE FINAL PREMIUM, SUCH AS ROUNDING, APPLICATION OF FACTORS, ETC.

***COMPANY'S EXCEPTIONS:**

Form completed by: _____ Signature
 _____ Title

Date Completed: _____
 Phone: _____

GOVERNOR

EXECUTIVE ORDER NUMBER TWELVE (94)

ESTABLISHING THE GOVERNOR'S COMMISSION ON BASE RETENTION AND DEFENSE ADJUSTMENT

By virtue of the authority vested in me as Governor under Article V of the Constitution of Virginia and Section 2.1-51.36 of the Code of Virginia, and subject to my continuing and ultimate authority and responsibility to act in such matters, I hereby create the Governor's Commission on Base Retention and Defense Adjustment.

The Commission is classified as a gubernatorial advisory committee in accordance with Sections 2.1-51.35 and 9-6.25 of the Code of Virginia.

The Commission shall have the responsibility to advise the Governor, and others whom the Governor directs, on all matters related to Virginia's preparation for and response to the activities of the United States Defense Base Closure and Realignment Commission ("BRAC"), on matters regarding re-use of military bases which may be closed, and on community adjustment and other issues related to defense downsizing.

Background

With changing world political and economic conditions, including the end of the Cold War and the collapse of the Soviet Union, the United States has begun a major restructuring of its military forces and defense expenditures. The number of commands in all branches of the military is being cut; troops, facilities and equipment are being realigned; and the budget for military expenditures is being significantly reduced. The initial round of "base closings" began in 1988 and has continued with two more reviews in 1991 and in 1993. This process will permanently alter the economic condition and structure of communities which have been host to United States military facilities and personnel.

Virginia traditionally ranks either first or second among all states in terms of per capita defense spending by the United States Government. Hampton Roads is the location of the largest military complex and concentration of military facilities, equipment, and personnel anywhere in the United States. In addition, other regions of Virginia are host to major military concentrations which contribute greatly to their local economies. Finally, many businesses in Virginia receive contracts for U.S. Department of Defense-related goods and services.

The impact of defense cuts is being felt on Virginia's economy. Although the actual dollar amount of defense-related activity has increased slightly in recent years, the number of people employed by defense contractors and at military facilities has dropped significantly. As a result of the recommendations of the 1993 BRAC Commission, the net job loss to Virginia was 10,200 jobs. It is projected that the BRAC process in 1995 ("BRAC '95") could have an even greater impact on

Virginia in terms of closings and loss of jobs.

In past years, Virginia's response to the BRAC process has lacked organization and coordination. It is clear that Virginia now must fight aggressively to retain military bases and jobs created by defense spending. In order to do so, elected officials, local communities, business organizations and individual citizens must work together to demonstrate the value of the United States' investment in Virginia installations and Virginia's desire to be a supportive host for defense-related activities in this state.

Duties of the Commission

The Governor's Commission on Base Retention and Defense Adjustment is created to provide policy advice in coordinating Virginia's preparation for, and response to, the BRAC '95 process and other issues associated with defense adjustment. The Commission's specific duties shall include:

1. To advise local communities of the BRAC '95 timetable, process and requirements;
2. To support the members of Virginia's Congressional Delegation in presenting factual information concerning the strategic and economic importance of defense installations in various regions of the state;
3. To create alliances of communities and interested organizations for the purpose of formulating effective plans for addressing BRAC-related issues;
4. To coordinate and facilitate activities designed to prevent closure of United States defense-related installations in Virginia;
5. To identify sources of funding and other resources to assist in the process of defense adjustment; and
6. To assist in devising long-term strategies for re-use of facilities that have been closed or that are in the process of closing, and for diversification of the state's economy to lessen dependency on defense-related spending.

Organization and Support

The Commission shall be composed of no more than thirty (30) members appointed by the Governor and serving at his pleasure. The Governor shall designate a Chair and Vice-Chair, or in lieu thereof, two or more Co-Chairs, to lead the Commission.

Such staff and financial support as is necessary for the conduct of the Commission's work during the term of its existence shall be furnished through an Office of Base Retention and Defense Adjustment within the Commerce and Trade Secretariat. This Office shall receive support as necessary from the Office of the Governor, the Offices of the Governor's Secretaries, the Department of Planning

and Budget, the Department of Economic Development, and such other Executive agencies with closely and definitely related purposes as the Governor may designate. Staff time necessary to support the Office and Commission is estimated at 8,000 hours. Funding necessary for the term of the Commission's existence shall be provided from sources, including state and federal appropriations and private contributions, authorized by § 2.1-51.37(2) of the Code of Virginia. The cost of the Commission's work, including the support activities of the Office of Base Retention and Defense Adjustment, is estimated at \$325,000.

Members of the Commission shall serve without compensation and may receive reimbursement for expenses incurred in the discharge of their official duties only upon approval of the Secretary of Commerce and Trade.

The Commission shall issue such interim and final reports, and shall make such recommendations, as it may deem appropriate or as the Governor may direct.

This Executive Order shall be retroactively effective to April 1, 1994, upon its signing, and shall remain in full force and effect until March 31, 1995, unless sooner amended or rescinded by further executive order.

Given under my hand and under the seal of the Commonwealth of Virginia, this 17th day of June, 1994.

/s/ George Allen
Governor

V.A.R. Doc. No. R94-1088; Filed June 27, 1994, 3:45 p.m.

EXECUTIVE ORDER NUMBER THIRTEEN (94)

REVIEW OF REGULATIONS PROPOSED BY STATE AGENCIES

By virtue of the authority vested in me as Governor under Article V of the Constitution of the Commonwealth of Virginia and under the laws of the Commonwealth, including but not limited to Section 9-6.14:9.1 of the Code of Virginia, and subject to my continuing and ultimate authority and responsibility to act in such matters, I hereby establish policies and procedures for review of all new or revised regulations proposed by agencies of the Commonwealth.

Preamble

The five-fold increase in living standards over the past century attests to the success of the free enterprise system. This rise in income has done more to improve the welfare, health, and safety of Virginians than all government policies ever devised, and indeed has financed those policies. A keen awareness that government intervention can distort market forces and diminish

individual incentives for diligence, thrift, and innovation must guide the philosophy and process of promulgating regulations.

While some regulations are essential to the public well-being, governmental institutions have an unhealthy tendency to favor regulatory over free-market solutions. When deciding whether to promulgate a new regulation, it is vital that there be a presumption in favor of individual liberty and freedom from governmental restraint. Before any rulemaking process commences, a specific need for governmental intervention must be clearly identified and precisely defined. Moreover, even when government intervention is warranted, the regulation promulgated must represent the least burdensome and intrusive means available that will redress the identified need.

As regulations are being promulgated, the right of the public to be heard and have their reasonable concerns reflected in final decisions must be respected. Citizens must have the opportunity to participate fully in the regulatory process. In order to assure this opportunity, agencies must establish procedures that provide for a timely written response to all comments and the inclusion of changes suggested by reasonable, cogent, and persuasive comments. Under the revised procedures outlined in this order, each agency head will be held directly accountable for compliance with the provisions of the Administrative Process Act (Va. Code Section 9-6.14:1 et seq.) (APA) and for ensuring that citizens with constructive comments have the opportunity to participate fully in the rulemaking process.

The following principles shall guide agencies in carrying out this Executive Order. To ensure that the people of Virginia are not burdened by unnecessary and excessive regulation, it shall be the policy of the Commonwealth that:

A. Regulatory activities of agencies are to be undertaken with the least possible interference in private enterprise and in the lives of Virginia's citizens. Unless otherwise mandated by statute, the only regulations promulgated will be those that are essential to protect the health, safety and welfare of citizens or for the efficient and economical performance of an important governmental function.

B. No regulation will be promulgated if there are less burdensome or less intrusive alternatives available to state agencies that will satisfy any applicable state or federal legal requirements and achieve the essential purpose for which the regulatory action is undertaken.

C. Regulations are not to be considered perpetual and will be subjected to periodic re-evaluation through inclusions of a future review date in the regulatory review package. Prior to such date, each regulation will be reviewed to determine if it should be continued in its existing form, amended or terminated. To the extent practical and feasible, each regulatory review package will set forth a list of specific and measurable goals that the

regulation is intended to achieve. Progress toward those goals will be evaluated during the review process.

D. Regulations will be clearly written and easily understandable by the individuals and entities affected.

E. All legal requirements related to public participation and all public participation guidelines will be strictly followed to ensure that citizens have reasonable access and opportunity to present their comments and concerns.

Applicability

This Executive Order applies to rulemaking initiated by agencies and departments of the Commonwealth of Virginia in accordance with the APA on or after the effective date of this Executive Order.

Procedures for Review of Regulations

In addition to the procedures required for the promulgation of regulations by the APA, the procedures set forth below shall be followed. In all instances in which a determination is to be made as to an agency's legal authority to promulgate a regulation or as to whether a regulation is mandated by state or federal law, the Secretary or agency shall seek the advice of the Office of the Attorney General in making such a determination.

1. Preliminary Determination by DPB and Secretary

Prior to providing the Registrar of Regulations a proposed Notice of Intended Regulatory Action (NOIRA) pursuant to Section 9-6.14:7.1 of the APA, the agency head must submit to the appropriate Governor's Secretary and to the Department of Planning and Budget (DPB) a proposal outlining the reasons the agency wishes to promulgate a new or revised regulation. This submission shall include the following:

- a. A statement identifying the source of the agency's legal authority to promulgate the contemplated regulation and an explanation of the specific reason for the proposed regulation;
- b. A statement as to whether the contemplated regulation is mandated by state law or federal law or regulation, and, if mandated in whole or in part, a succinct statement of the source (including legal citation) and scope of the mandate, together with an attached copy of all cited legal provisions;
- c. A statement setting forth the reasoning by which the agency has concluded that the contemplated regulation is essential to protect the health, safety or welfare of citizens or for the efficient and economical performance of an important governmental function; and
- d. A statement describing the process by which the

agency has considered, or will consider, less burdensome and less intrusive alternatives for achieving the essential purpose (identified in l.c. above), the alternatives considered or to be considered (to the extent known), and the reasoning by which the agency has rejected any of the alternatives considered.

DPB shall review the submission to determine whether it complies with all requirements of this Executive Order and applicable statutes and whether the contemplated regulatory action comports with the policy of the Commonwealth as set forth herein. The Director of DPB shall advise the Secretary and the Governor of its determination.

The Secretary shall then make a determination whether to authorize the agency to provide the NOIRA to the Registrar pursuant to Va. Code Section 9-6.14:7.1.B, as follows:

- a. If the Secretary determines that the agency has the legal authority to promulgate the contemplated regulation and that the contemplated regulation comports with the policy of the Commonwealth as set forth herein, the Secretary shall authorize the agency to provide the NOIRA to the Registrar.
- b. If the Secretary determines that the contemplated regulation does not comport with the policy of the Commonwealth as set forth in this Executive Order but that the contemplated regulation is necessary to satisfy the minimum requirements of state or federal law, the Secretary shall authorize the agency to provide the NOIRA to the Registrar.
- c. If the Secretary determines that the agency's submission is inadequate to satisfy the requirements of this Executive Order, the Secretary shall apprise the agency of the nature of the inadequacy. The Secretary shall not authorize the agency to provide the NOIRA to the Registrar until the agency shall have complied fully with the requirements of this Executive Order.
- d. If the Secretary determines that the contemplated regulation is not mandated by state or federal law and that it does not comport with policy of the Commonwealth as set forth herein, the Secretary shall apprise the agency of the determination and shall not authorize the agency to provide the NOIRA to the Registrar.

At least three (3) business days before communicating the determination to the agency, the Secretary shall advise the Governor of this determination by forwarding the pre-NOIRA submission from the agency with a cover memorandum outlining the Secretary's determination and reasons therefor. If, however, the Secretary's determination is contrary to the determination by DPB, the Secretary shall so notify

the Governor and shall not communicate the determination to the agency without the approval of the Governor.

2. Preparation of Regulatory Review Package

Following the initial public comment period required by Va. Code Section 9-6.14:7.1.B, and taking into account the comments received, the agency head shall prepare a regulatory review package. The package shall include the following components:

- a. A copy of the proposed new regulation or revision to existing regulation;
- b. A copy of the proposed regulation submission package required by Va. Code Section 9-6.14:7.1.G (redesignated Section 9-6.14:7.1.H after January 1, 1995);
- c. For rulemaking initiated after January 1, 1995, the economic impact analysis required by Va. Code Section 9-6.14:7.1.G;
- d. A statement from the Attorney General that the agency possesses, and has not exceeded, its statutory authority to promulgate the proposed regulation;
- e. A statement disclosing whether the contemplated regulation is mandated by state law or federal law or regulation, and, if mandated in whole or in part, a succinct statement of the source (including legal citation) and scope of the mandate, together with an attached copy of all cited legal provisions;
- f. For any proposed regulation that exceeds the specific minimum requirements of a legally binding state or federal mandate, a specific rather than conclusory statement setting forth the reasoning by which the agency has concluded that the proposed regulation is essential to protect the health, safety or welfare of citizens or for the efficient and economical performance of an important governmental function;
- g. For any proposed regulation that exceeds the specific minimum requirements of a legally binding state or federal mandate, a specific rather than conclusory statement describing the process by which the agency has considered less burdensome and less intrusive alternatives for achieving the essential purpose (identified in 2.f. above), the alternatives considered, and the reasoning by which the agency has rejected such alternatives;
- h. A schedule setting forth when, no later than three (3) years after the proposed regulation is effective, the agency will initiate a review and re-evaluation of the regulation to determine if it should be continued, amended, or terminated and the specific and measurable goals the proposed

regulation is intended to achieve.

- i. A detailed fiscal impact analysis prepared in coordination with DPB that includes: (a) the projected cost to the state to implement and enforce the proposed regulation and (b) the source of funds to meet this projected cost. DPB may make any recommendations as to funding sources it deems necessary.

3. Review of Regulatory Review Package by DPB and Secretary

The regulatory review package shall be forwarded to the Secretary and DPB. DPB shall review the package to determine whether it complies with all requirements of this Executive Order and applicable statutes and whether the proposed regulation comports with the policy of the Commonwealth as set forth herein. The Director of DPB shall advise the Secretary and the Governor of its determination.

The Secretary shall then make a determination whether to authorize the agency to deliver the proposed regulation submission package to the Registrar of Regulations, as follows:

- a. If the Secretary determines that the agency has the legal authority to promulgate the proposed regulation and that the proposed regulation comports with the policy of the Commonwealth as set forth herein, the Secretary shall authorize the agency to deliver the proposed regulation submission package to the Registrar.
- b. If the Secretary determines that the proposed regulation does not comport with the policy of the Commonwealth as set forth in this Executive Order but that the proposed regulation is necessary to satisfy the minimum requirements of state or federal law, the Secretary shall authorize the agency to deliver the proposed regulation submission package to the Registrar.
- c. If the Secretary determines that the agency's regulatory review package is inadequate to satisfy the requirements of the APA or this Executive Order, the Secretary shall apprise the agency of the nature of the inadequacy. The Secretary shall not authorize the agency to deliver the regulation submission package to the Registrar until the agency shall have complied fully with the requirements of the APA and this Executive Order.
- d. If the Secretary determines that the proposed regulation does not comport with policy of the Commonwealth as set forth herein and that the proposed regulation is not mandated by, or exceeds the mandate of, state and federal law, the Secretary shall communicate to the agency the deficiencies found in the proposed regulation and the changes

necessary to bring the proposed regulation into compliance with the policy set forth in this Executive Order.

At least three (3) business days before communicating this determination to the agency, the Secretary shall advise the Governor of this determination by forwarding the regulatory review package from the agency with a cover memorandum outlining the Secretary's determination and reasons therefor. If, however, the Secretary's determination is contrary to the determination by DPB, the Secretary shall so notify the Governor and shall not communicate the determination to the agency without the approval of the Governor.

A central aspect of the Secretary's determination will be the consideration of less burdensome and less intrusive alternatives for satisfying any applicable state and federal mandates and for achieving the essential purpose for which regulatory action has been initiated. When the Secretary discerns the availability of such alternatives, he or she shall provide specific guidance concerning such alternatives to the affected agency and shall forward a copy of such information to the Governor.

4. Submission of Final Proposed Regulation

After the agency has reviewed comments received during the public comment period following publication of the proposed regulation and has revised the proposed regulation as the agency deems necessary and proper, the agency will prepare the proposed final regulation. The agency must provide a copy of the proposed final regulation and any applicable comments, including all comments received from the public, to the Secretary, DPB, and the Governor at the same time that it submits a copy of the proposed final regulation to the Registrar pursuant to Va. Code Section 9-6.14:9.1.B.

Responsibilities of Heads of Agencies

The head of each agency shall be responsible for ensuring that all requirements applicable to agencies outlined in this Executive Order and the APA are met.

Responsibilities of the Governor's Secretaries

The Governor's Secretaries shall have the following responsibilities:

1. The Secretaries shall ensure that no Notice of Intended Regulatory Action (NOIRA) is forwarded to the Registrar of Regulations unless all requirements of this Executive Order pertaining thereto have been met and unless the contemplated regulatory action comports with the policy of the Commonwealth as set forth herein;

2. The Secretaries shall ensure that the regulatory review package contains all of the components required under this Executive Order and by law, and that it comports with the policy of the Commonwealth as set forth herein or in applicable law. In particular, the Secretaries shall review proposed regulations closely to determine whether they represent the least burdensome or intrusive alternative available.

3. The Secretaries shall notify the Governor of the foregoing determinations in the manner described above. Where DPB reaches a contrary determination, the Secretary shall so advise the Governor and shall take no further action without the approval of the Governor.

4. If a proposed regulation represents a major programmatic or substantive change from existing policy or a potential conflict with stated objectives of the Governor, the Secretaries shall notify the Governor before taking any action.

5. The Secretaries shall submit comments to agencies during the public-comment and final-adoption periods if they deem such comment necessary, and shall make recommendations to the Governor as to comments that the Secretaries recommend the Governor submit on proposed regulations.

6. The Secretaries shall review all final proposed regulations upon adoption by the agencies and shall notify the Governor if substantial revisions have been made to the proposed regulation since it was published initially. The Secretary shall also review the public comments received and notify the Governor whether the agency appears to have responded in a reasonable manner to the public comment.

Responsibilities of the Department of Planning and Budget (DPB)

DPB shall have the following responsibilities:

1. Effective January 1, 1995, DPB shall approve the economic-impact analysis prepared in coordination with the agencies as required by Va. Code Section 9-6.14:7.1.G of the APA.

2. In coordination with the agencies, DPB shall approve a detailed fiscal impact analysis of the proposed regulation to be included in the regulatory review package. The fiscal impact analysis shall include, but need not be limited to, the projected cost to the state of implementing and enforcing the proposed regulation and the source of funds to meet the projected cost. DPB shall also make such recommendations as to sources of funds as it deems necessary.

3. DPB shall review the proposed regulation during the public-comment period following initial publication

and may submit comments to the agency, including recommended amendments or revisions, as it deems necessary. DPB shall also make recommendations to the Governor as to comments the Governor should submit on proposed regulations. DPB shall provide the appropriate Secretaries with advance copies of all comments provided to agencies.

4. DPB shall review the final proposed regulation upon adoption by the agency and shall notify the Governor if substantial revisions have been made to the proposed regulation as it was published initially and the effect, if any, that the proposed changes will have on the economic and fiscal impact of the proposed regulation.

Responsibilities of the Governor

The Governor, or the Governor's Policy Office acting as his designee, shall have the following responsibilities:

1. The Governor shall review the pre-NOIRA submission and Secretary's preliminary determination and evaluate them according to the criteria detailed above in "Procedures for Review of Regulations."
2. The Governor shall review the regulatory review package to determine whether the proposed regulation is clearly written, easily understandable, necessary to protect the public's health, safety or welfare, essential for the efficient and economical performance of an important governmental function, minimally burdensome and intrusive for citizens, and grounded in proper legal authority.
3. The Governor shall review final proposed regulations to determine whether substantial revisions have been made to the proposed regulation published initially. The Governor shall also review the public comments received by the agency and determine whether the final proposed regulation adopted by the agency reflects a fair consideration of reasonable public comments. The Governor shall closely review the final proposed regulation to determine whether the agency has responded appropriately to comments and recommendations delivered to the agency from the Governor.
4. If necessary, the Governor shall exercise his power under § 9-6.14:9.1 to require the agency to provide an additional 30-day comment period following the 30-day final adoption period, or shall exercise any other rights and prerogatives existing under the APA and other provisions of Virginia law.

This Executive Order shall become effective upon its signing and shall remain in full force and effect until June 30, 1998, unless amended or rescinded by further Executive Order. This Executive Order rescinds Executive Order Number Twenty-Three (90) issued on the first day of October, 1992.

Given under my hand and under the Seal of the Commonwealth of Virginia on this 21st day of June, 1994.

/s/ George Allen
Governor

VA.R. Doc. No. R94-1085; Filed June 23, 1994, 8:59 a.m.

EXECUTIVE ORDER NUMBER FOURTEEN (94)

REVIEW OF EMERGENCY REGULATIONS PROPOSED BY STATE AGENCIES

By virtue of the authority vested in me as Governor under Article V of the Constitution of the Commonwealth of Virginia, including but not limited to Section 9-6.14:9.1 of the Code of Virginia, and subject to my continuing and ultimate authority and responsibility to act in such matters, I hereby establish policies and procedures for review of all emergency regulations proposed by agencies of the Commonwealth.

1. Preparation of Regulatory Review Package

In accordance with Section 9-6.14:4.1.C.5 of the Administrative Process Act (APA) and this Executive Order, an agency desiring to propose an emergency regulation shall prepare a regulatory review package that shall consist of:

- a. A copy of the proposed regulation;
- b. A statement from the Attorney General that the agency has the statutory authority to promulgate the proposed regulation;
- c. If the proposed regulation is mandated in whole or in part by state or federal law or regulation, a citation to that provision and a copy of the cited law or regulation attached;
- d. A statement that the emergency regulation is necessary because of (i) a situation involving an imminent threat to public health or safety, or (ii) a situation in which Virginia statutory law or the appropriation act or federal law requires that a regulation shall be effective in 280 days or less from enactment of the law or the appropriation act, and the regulation is not exempt under the provisions of subdivision C 4 of Section 9-6.14:4.1. This statement shall set forth in detail the nature of the emergency and the necessity for such action.

2. Preliminary Approval by the Secretary and DPB

The agency shall submit the regulatory review package simultaneously to the Secretary and to the Department of Planning and Budget (DPB). With advice from the Attorney General, the Secretary shall make a determination as to whether the proposed

regulation is legally authorized and necessary based upon the criteria outlined in Section 1 above. DPB shall also make a determination of necessity and communicate its determination to the Secretary and the Governor.

If the Secretary approves the proposed regulation, the Secretary shall communicate that approval to the Governor by forwarding the regulatory review package with a cover memorandum setting forth the approval and the reasons therefor. If DPB's recommendation conflicts with the Secretary's, that shall be noted in the cover memorandum.

3. Approval by the Governor

The Governor, or the Governor's Policy Office acting as his designee, shall review the regulatory review package and the memoranda from the Secretary and DPB and determine whether the proposed regulation should be approved or disapproved. The Governor's decision shall be promptly communicated to the agency, which shall act accordingly.

4. Subsequent Action by the Agency

Should the agency desire to promulgate a permanent regulation to replace an emergency regulation, it shall submit the pre-NOIRA submission package required under Executive Order Number Thirteen (94) to the Secretary and to DPB within 20 days of the effective date of the emergency regulation. In accordance with Section 9-6.14.4.1.C.5 of the APA, the NOIRA, if approved, shall be delivered to the Registrar of Regulations in time to be published within 60 days of the effective date of the emergency regulation, and the proposed regulation shall be delivered to the Registrar of Regulations in time to be published within 180 days of the effective date of the emergency regulation.

This Executive Order shall become effective upon its signing and shall remain in full force and effect until June 30, 1998, unless amended or rescinded by further Executive Order.

Given under my hand and under the Seal of the Commonwealth of Virginia on this 21st day of June, 1994.

/s/ George Allen
Governor

V.A.R. Doc. No. R94-1083; Filed June 23, 1994, 8:59 a.m.

EXECUTIVE ORDER NUMBER FIFTEEN (94)

COMPREHENSIVE REVIEW OF ALL EXISTING AGENCY REGULATIONS

By virtue of the authority vested in me as Governor

under Article V of the Constitution of the Commonwealth of Virginia, including but not limited to Section 9-6.14:25 of the Code of Virginia, and subject to my continuing and ultimate authority and responsibility to act in such matters, I hereby establish policies and procedures for a comprehensive review of all existing state agency regulations.

Preamble

This order directs that state agencies conduct a comprehensive review of all existing regulations, to be completed by January 1, 1997. Agency heads will provide to their respective Cabinet Secretaries their recommendations as to whether each existing regulation should be terminated, amended, or retained in its current form. Each agency will also develop a process for ongoing review of regulations as a regular agency activity, to be implemented following completion of this comprehensive review. This process for ongoing review of regulations will include the periodic evaluation of specific and measurable goals to determine whether a regulation has been effective.

The Commonwealth and its agencies promulgate many regulations each year. While a comprehensive framework for adoption of those regulations is established in the Administrative Process Act (Va. Code Section 9-6.14:1 et seq.) (APA), this framework has not been uniformly followed in the past. As a result, Virginians face a regulatory burden of unknown magnitude and with uncertain benefits. Some regulations have been carefully and properly adopted, yet many appear to have been implemented without proper oversight, comment and notice to the citizens of the Commonwealth.

Even where proper processes have been followed in the promulgation of regulations, due regard often has not been given to the right and need of Virginia citizens to be free of excessive governmental restraint and interference. Rulemaking has proceeded without sufficient recognition of the reality that government intervention can distort market forces and diminish individual incentives for diligence, thrift, and innovation. Agencies frequently have failed to identify a specific need that makes each regulation essential, and have failed to seek less burdensome and less intrusive alternatives that may be available.

These shortcomings in prior rulemaking make essential the comprehensive review of all existing regulations mandated by this Executive Order.

The following principles shall guide agencies in carrying out this Executive Order. To ensure that the people of Virginia are not burdened by excessive regulation, it shall be the policy of the Commonwealth that:

A. Regulations must be tailored to achieve the least possible interference in private enterprise and in the lives of Virginia's citizens. Unless otherwise mandated by statute, the only regulations that should remain in effect

Governor

are those that are essential to protect the health, safety and welfare of citizens or for the efficient and economical performance of an important governmental function.

B. No regulation should remain in effect if there are less burdensome or less intrusive alternatives available that will satisfy any applicable state or federal legal requirements and achieve the essential purpose for which the regulatory action has been undertaken.

C. Regulations are not to be considered perpetual and will be subjected to regular re-evaluation through inclusion of a future review date. Prior to such date, each regulation will be reviewed to determine if it should be continued in its existing form, amended or terminated. To the extent practical and feasible, each regulation will set forth a list of specific and measurable goals that the regulation is intended to achieve. Progress toward those goals will be evaluated during the review process.

D. Regulations should be clearly written and easily understandable by the individual and entities affected.

E. All legal requirements related to public participation must be strictly followed, and public participation guidelines will be strengthened if necessary to ensure that citizens have reasonable access and the opportunity to present their comments and concerns.

Applicability

The review of regulations required by this Executive Order applies to all Executive Branch agencies of the Commonwealth of Virginia which have promulgated regulations in accordance with the APA, except those specifically exempted under Va. Code Section 9-6.14:4.1. This Executive Order applies to all regulations and to written statements filed with the Registrar of Regulations pursuant to Chapter 735, 1993 Virginia Acts of Assembly, which is attached to this order.

Timetable for Review

The timetable for review of existing regulations will be as follows:

1. Agencies reviewing 10 regulations or less must complete their reviews and assessments by July 1, 1995.
2. Agencies reviewing more than 10 regulations must complete their reviews and assessments for at least one-half of their regulations by July 1, 1995, and must complete their reviews of the remaining regulations by July 1, 1996.
3. Final approval by the Secretaries of all agency reviews shall be completed by January 1, 1996, for reviews due by July 1, 1995, and by January 1, 1997, for all remaining reviews.

For the purpose of this section of the Executive Order, "regulation" shall refer to a regulatory provision identified by a VR number.

Development of Review Schedule and Subsequent Regular Review Plans

Each agency shall submit to its Secretary by August 15, 1994, a proposed schedule setting forth specific dates for the commencement and completion of the reviews mandated by this Executive Order in accordance with the deadlines set forth herein. By August 15, 1994, each agency shall also submit to its Secretary a plan for subsequent regular reviews of agency regulations to be instituted following completion of the review of existing regulations mandated by this Executive Order.

The Secretary shall review the proposed schedule and the plan for subsequent regular review, and shall ensure that each is adequate to comply with the timetables and other requirements set forth in this Executive Order. If the Secretary determines that the schedule or subsequent regular review plan is inadequate, he or she shall return it to the agency with instructions for revision. Once approved by the Secretary, copies of the schedule and subsequent regular review plan shall be provided to the Department of Planning and Budget (DPB) and to the Governor.

If an agency has not been notified by September 15, 1994, of approval of its proposed schedule and subsequent regular review plan, the agency shall proceed to implement its schedule and plan without revision.

Procedures for Review and Reporting

1. Review by the Agency

The review and assessment of existing regulations will begin immediately upon approval of the agency's review schedule, but in no case later than September 15, 1994. The process shall include:

- a. Immediate publication in the Virginia Register of Regulations of a notice by the agency listing the regulations to be reviewed, a request for public comment, and the deadlines for submission of comments.
- b. A review by the Office of the Attorney General to ensure that statutory authority exists for each regulation.
- c. An analysis by the agency resulting in the following:
 - i. A statement as to whether each regulation is mandated by state law or federal law or regulation, and, if mandated in whole or in part, a succinct statement of the source (including legal citation) and scope of the mandate, together with an attached

copy of all cited legal provisions;

ii. For each existing regulation that exceeds the specific minimum requirements of a state or federal mandate, a statement explaining whether, to what extent, and for what reason the regulation is (or is not) essential to protect the health, safety or welfare of citizens or for the efficient and economical performance of an important government function;

iii. For each existing regulation that exceeds the specific minimum requirements of a state or federal mandate, a statement describing the process by which the agency has considered less burdensome and less intrusive alternatives for achieving the essential purpose (identified in 1.c.ii. above), the alternatives considered, and the reasoning by which the agency has endorsed or rejected such alternatives; and

iv. A statement as to whether the regulation is clearly written and easily understandable by the individuals and entities affected, and any recommendations for improvements to the regulation.

In all instances in which a determination must be made as to whether and to what extent a regulation is mandated by state or federal law, the agency shall seek the advice of the Office of the Attorney General in making such a determination.

2. Agency's Report to Secretary

The agency shall complete its review and report its findings to the Secretary no later than the date specified in the schedule for each regulation. Each report will include a summary of the public comment, if any, and set forth the agency's recommendations, including whether the agency recommends that the regulation be retained in its current form, amended or terminated, and the analysis leading to the recommendation. This analysis shall include, at a minimum, the statements specified in 1.c. above.

3. Review of Report by Secretary

The Secretary shall promptly review the report to determine whether, in form and substance, it complies with the requirements of this Executive Order and comports with the policy of the Commonwealth as set forth herein. If the report does not comply with the requirements of this Executive Order, the Secretary shall return it to the agency with instructions for its prompt revision. After the Secretary determines that the requirements of the Executive Order have been met, the Secretary shall (i) indicate whether he or she agrees with the agency's recommendations, (ii) make additional or different recommendations if any be deemed necessary, and (iii) forward the report to DPB. Before completing his or her review, the

Secretary may also forward the report to DPB for review and comment for the Secretary's benefit.

4. Review by Department of Planning and Budget

DPB shall promptly review the report, and the Director of Planning and Budget shall add any other comments or recommendations he or she deems appropriate. DPB shall ensure that the report is in a proper form for submission to the Governor and shall then submit the report.

5. Approval by Governor and Implementation of Recommendations

Upon receiving approval from the Governor delivered by the Secretary for that agency, the head of each agency shall act to carry out the recommendations of the report or such additional or revised recommendations as the Governor shall indicate.

Effective Date

This Executive Order shall become effective upon its signing and shall remain in full force and effect until June 30, 1998.

Given under my hand and under the Seal of the Commonwealth of Virginia on this 21st day of June, 1994.

/s/ George Allen
Governor

VA.R. Doc. No. R94-1084; Filed June 23, 1994, 8:59 a.m.

CHAPTER 735

An Act to require state agencies to file all regulations and other statements having the force of law, all of which are subject to the Register Act.

[S 639]

Approved March 28, 1993

Whereas, the Virginia Register Act, Chapter 1.2 (§ 9-6.15 et seq.) of Title 9 of the Code of Virginia, defines "rule or regulation" to mean "any statement of general application, having the force of law, affecting the rights or conduct of any person, promulgated by an agency in accordance with the authority conferred on it by applicable basic laws"; and

Whereas, under the Virginia Register Act, it is the duty of every agency to have on file with the Registrar the full text of all of its currently operative regulations and such information regarding any regulations as may be requested by the Virginia Code Commission; and

Whereas, some state agencies subject to the Virginia Register Act are currently enforcing their regulatory powers through regulations which have not been properly filed with the Registrar and by issuing written statements including but not limited to "resolutions," "administrative letters," "directives," "state plans," "manuals," or "policies, procedures and guidelines" which are intended by such agency to have the force of law and have general application but are not on file with the Registrar; and

Whereas, the General Assembly authorized the Virginia Code Commission to arrange for the publication of a Code of Administrative Regulations when the Code Commission determines that the publication would be in the best interests of the citizens of the Commonwealth; and

Whereas, the Code Commission has found that the entire regulatory law should be accessible and readily and economically available to the citizens, who have both the right and the need to know the regulatory law as promulgated and enforced by the various state agencies; and

Whereas, the Virginia Code Commission through the Registrar of Regulations is developing a database which will include the full text or text by reference of all the regulatory law required to be filed under the Virginia Register Act so that a publisher may use the electronic tape to create a regulatory code; and

Whereas, the Registrar needs to have all regulations and written statements of general application having the force of law in order to develop and maintain the database; now, therefore,

Be it enacted by the General Assembly of Virginia:

1. § 1. *All state agencies which are subject to the filing requirements of the Virginia Register Act, Chapter 1.2 (§ 9-6.15 et seq.) of Title 9 of the Code of Virginia, shall have properly filed for publication by August 15, 1993, with the Registrar of Regulations all regulations or other written statements, including but not limited to resolutions, administrative letters, directives, state plans, manuals, or policies, procedures and guidelines, which are subject to the Virginia Register Act, which have general application, and which currently are being enforced as having the force of law. If such regulations or other written statements are not filed by August 15, 1993, they shall cease to have the force of law and shall not be enforceable. The filing of such regulations or other written statements pursuant to this section shall not be deemed to give to any such regulation or other written statement the force of law and render it enforceable if it is otherwise unenforceable.*

§ 2. *The Registrar of Regulations shall assist each state agency in its filing as required in § 1 by delivering a listing which identifies all such regulations and other written statements of that agency which are on file in the Registrar's office. Such listing shall be delivered to each agency by July 1, 1993. Each agency shall return a copy of the listing to the Registrar certifying that all such regulations and other written statements which the agency is currently enforcing are either (i) contained in the listing or (ii) not contained in the listing. If the listing does not contain all such regulations and other written statements, the agency shall properly file with the Registrar by the August 15 deadline such regulations and other written statements that were not on the list.*

2. That an emergency exists and this act is in force from its passage.

EXECUTIVE ORDER NUMBER SIXTEEN (94)

THE "OPPORTUNITY VIRGINIA" INITIATIVE:
DEVELOPING A STRATEGIC PLAN FOR JOBS
AND PROSPERITY

By virtue of the authority vested in me as Governor under Article V of the Constitution of Virginia and under the laws of the Commonwealth, including but not limited to Chapter 5 of Title 2.1 and Section 9-6.25 of the Code of Virginia, and subject to my continuing and ultimate authority and responsibility to act in such matters, I hereby establish an economic development strategic planning initiative to be led by the Governor's Advisory Board for Opportunity Virginia, which is established hereunder.

Preamble

Virginia's economic development efforts in recent years have lacked direction and coherence. To create new and better job opportunities for Virginia's citizens in the competitive environment of today and tomorrow, Virginia must have a well-conceived and fully integrated plan for economic development in which both the public and private sectors are engaged as partners.

While some areas of the Commonwealth have successful economic development activities, many areas lack effective marketing and strategic planning programs. There is currently no consistent pattern in the missions and organization of economic development activities throughout Virginia.

The lack of coordinated action regionally and statewide hampers the Commonwealth's ability to compete successfully for new investment and new trade. At the same time, expansion of existing enterprises and recruitment of new business facilities to Virginia is impeded by the failure to focus state policy on the creation and preservation of a tax and regulatory climate conducive to economic growth.

To bring focus, coordination, and new energy to Virginia's state, regional and local economic development activities, I have ordered the creation of eighteen Regional Economic Development Advisory Councils. I have directed the Secretary of Commerce and Trade to integrate these regional councils into a Strategic Planning Initiative involving governmental officials with economic development responsibilities, community colleges and four-year educational institutions, and leaders from the private sector of the Virginia economy.

This initiative will be identified as Opportunity Virginia: A Strategic Plan for Jobs and Prosperity.

The Governor's Advisory Board and Regional Advisory Councils

There is hereby created a Governor's Advisory Board

for Opportunity Virginia, which shall advise the Governor on the formation and operation of Regional Economic Development Advisory Councils and on implementation of the statewide economic development Strategic Planning Initiative described herein. The Regional Economic Development Advisory Councils are classified as gubernatorial advisory councils, and the Governor's Advisory Board for Opportunity Virginia is classified as a gubernatorial advisory board, in accordance with Section 9-6.25 of the Code of Virginia. They shall have the following specific responsibilities:

1. The Board shall coordinate the Regional Economic Development Advisory Councils in accordance with the provisions of Item 106(B) of Chapter 966 of the 1994 Virginia Acts of Assembly. The Regional Councils shall include broad-based coalitions of business leaders, local and regional economic development professionals, elected officials, educators, and citizens, and shall, in their respective regions, assume prominent roles in strategic economic development planning and the formation of local host committees to assist in major business recruitment efforts and promotion of investment initiatives;
2. The Board shall assist economic development participants and planners in recognizing and capitalizing on the Commonwealth's regional differences and distinctive attributes, in addressing regional issues related to job creation, and in promoting cooperative regional economic development activities where they are currently inadequate or nonexistent; and
3. The Board shall, not later than November 1994, recommend a strategy and accompanying structure for organizing, implementing, and sustaining public/private partnership activities related to economic development planning, policies, and programs. In making such recommendation, the Board shall give careful consideration to existing regional marketing and strategic planning programs.

The Board shall consist of not more than 50 voting members, all appointed by the Governor and serving at his pleasure. The Governor shall designate a Chair and Vice Chair, or in lieu thereof two Co-Chairs, to lead the Board. Eighteen members of the Board appointed by the Governor shall also serve as Chairs of the eighteen Regional Economic Development Advisory Councils. The Governor shall appoint such additional members of the Regional Councils as he deems appropriate.

The Governor shall appoint the remaining members of the Board so as to include representatives from business associations and statewide organizations, from state agencies and offices involved in economic development issues, from educational institutions, and appropriate Governor's Secretaries. The Governor shall also designate members of economic sector working groups, consisting of citizen participants serving in an ex officio capacity, to

Governor

assist the Board in developing the strategic plan described herein.

Members of the Board and Regional Councils shall serve without compensation and shall not be reimbursed for expenses incurred in the discharge of their official duties.

Staff support necessary for the conduct of the work of the Board during the term of its existence shall be provided by the Office of the Governor, the Offices of the Governor's Secretaries, the Department of Economic Development, selected public institutions of higher education, and such other executive branch agencies with closely and definitely related purposes as the Governor may from time to time designate. In addition, the Department of Planning and Budget shall provide assistance to the Board. An estimated 3,000 hours of staff support will be required to support the Board's work.

Funding necessary during the Board's existence shall be provided from such sources, including both state funds appropriated for the same purposes served by the Board and private contributions, as are authorized by Section 2.1-51.37 of the Code of Virginia. Direct expenditures for the Board's work are estimated at \$30,000.

The Board shall complete its work and report to the Governor not later than November 30, 1994, unless the Governor shall otherwise direct. It shall issue such interim reports and recommendations as it deems appropriate or upon the Governor's request.

This Executive Order shall be effective retroactively to May 1, 1994, upon its signing, and shall remain in full force and effect until April 30, 1995, unless amended or rescinded by further executive order.

Given under my hand and under the Seal of the Commonwealth of Virginia, this 22nd day of June, 1994.

/s/ George Allen
Governor

V.A.R. Doc. No. R94-1087; Filed June 27, 1994, 3:45 p.m.

GOVERNOR'S COMMENTS ON PROPOSED REGULATIONS

(Required by § 9-6.12:9.1 of the Code of Virginia)

DEPARTMENT OF CRIMINAL JUSTICE SERVICES (CRIMINAL JUSTICE SERVICES BOARD)

Title of Regulation: **VR 240-04-4. Crime Prevention Specialists.**

Governor's Comment:

I reserve my right to make final comments on this regulation after review of the public's comments.

/s/ George Allen
Governor
Date: June 13, 1994

V.A.R. Doc. No. R94-1062; Filed June 17, 1994, 2:49 p.m.

DEPARTMENT OF EDUCATION (STATE BOARD OF)

Title of Regulation: **VR 270-01-0055. Regulations for the Protection of Students as Participants in Human Research.**

Governor's Comment:

I reserve my right to make final comments on this regulation after review of the public's comments.

/s/ George Allen
Governor
Date: June 13, 1994

V.A.R. Doc. No. R94-1064; Filed June 17, 1994, 2:48 p.m.

DEPARTMENT OF GAME AND INLAND FISHERIES (BOARD OF)

Title of Regulation: **VR 325-04-2. Motorboat Numbering.**

Governor's Comment:

I reserve my right to make final comments on this regulation after review of the public's comments.

/s/ George Allen
Governor
Date: June 13, 1994

V.A.R. Doc. No. R94-1063; Filed June 17, 1994, 2:49 p.m.

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES (BOARD OF)

Title of Regulation: **State Plan for Medical Assistance Relating to Durable Medical Equipment.**
VR 460-03-3.1100. Amount, Duration and Scope of Services (Supplement 1 to Attachment 3.1 A&B).
VR 460-02-3.1300. Standards Established and Methods Used to Assure High Quality of Care (Attachment 3.1-C).

Governor's Comment:

The proposed regulation would mainly comply with recent changes in federal home health service regulations for Medicaid recipients. However, I reserve my right to make final comments on this regulation after review of the public's comments.

/s/ George Allen
Governor
Date: June 13, 1994

VA.R. Doc. No. R94-1065; Filed June 17, 1994, 2:48 p.m.

**DEPARTMENT OF SOCIAL SERVICES (STATE BOARD
OF) AND CHILD DAY-CARE COUNCIL**

**Title of Regulation: VR 615-30-01 and 175-03-01. General
Procedures and Information for Licensure.**

Governor's Comment:

I reserve my right to make final comments on this
regulation after review of the public's comments.

/s/ George Allen
Governor
Date: June 13, 1994

VA.R. Doc. No. R94-1066; Filed June 17, 1994, 2:49 p.m.

* * * * *

**Title of Regulation: VR 615-38-01 and 175-11-01. Standards
and Regulations for Licensed Child Day Center Systems.**

Governor's Comment:

I reserve my right to make final comments on this
regulation after review of the public's comments.

/s/ George Allen
Governor
Date: June 13, 1994

VA.R. Doc. No. R94-1067; Filed June 17, 1994, 2:49 p.m.

STATE WATER CONTROL BOARD

**Title of Regulation: VR 680-21-00. Water Quality
Standards.
VR 680-21-01.3. Antidegradation Policy.**

Governor's Comment:

I reserve my right to make final comments on this
regulation after review of the public's comments.

/s/ George Allen
Governor
Date: June 13, 1994

VA.R. Doc. No. R94-1068; Filed June 17, 1994, 2:49 p.m.

The LEGISLATIVE RECORD

Volume 4
Number 1

June 1994

VIRGINIA DIVISION OF LEGISLATIVE SERVICES

HJR 101: Joint Subcommittee Studying the Financial Impact of Third Party Reimbursement on the Commonwealth's Pharmacies

June 9, 1994, Richmond

In August 1993, the joint subcommittee began its examination of the financial impact of third party reimbursement on pharmacy services, including such issues as health care coverage and reimbursement levels, competitive fairness, quality of care, the statutorily required physician/patient/pharmacist relationship and the effectiveness of personal counseling concerning drug effects and interactions. After receiving information on the Key Advantage, Blue Cross/Blue Shield, and Medicaid pharmacy programs and analyses of pharmacists' concerns, the joint subcommittee recognized the changing nature of pharmacy practice, for example, the increasing use of restricted networks and mail-order pharmacy services, the growth of managed care and specifically tailored "formularies," and the shift of pharmaceutical decision making from health care providers to program managers.

For the 1993 interim study, the joint subcommittee approved, with some modifications, a study plan consisting of site visits, work sessions, and public hearings to provide the members with broad experience with the issues. During the 1994 interim, the joint subcommittee plans to complete this study plan and develop final recommendations. At least two public hearings will be conducted and particular attention will be paid to drug pricing differentials.

Site Visits

Leonard Edloe owns and operates Edloe's Professional Pharmacy in the Church Hill area of Richmond. With a diverse patient population consisting of 50 percent or more Medicaid recipients, Mr. Edloe's concerns include the price inequities experienced by patients without insurance or with insurance that does not provide prescription drug coverage, particularly among the elderly poor or near poor who may have more pharmaceutical needs than younger populations. Some other problems noted were confusing formularies which differ from plan to plan, decreasing dispensing fees, and the competitive disadvantages of manufacturers' "classes of trade" pricing. Discriminatory pricing was explained using nitroglycerin heart patches as an example—health maintenance organizations,

mail order pharmacies, and others may obtain these patches for as little as \$5.00 per box, while Edloe's cost is \$38.00, resulting in a \$43.47 consumer purchase price. Having a long, rich tradition in the community, Mr. Edloe wants to continue to provide extra services such as home delivery. Volume of trade, he noted, generates profit, rather than the percentage of kinds of trade.

Dan Herbert, proprietor of the Bremo-Westhampton Pharmacy in Henrico County, has initiated several creative clinical programs focused on counseling patients with certain chronic diseases. At this time, the counseling modules are being developed and are concentrated on hypertension, diabetes, high cholesterol, and asthma. Grant funded for three years, the program, which has just completed one year, is intended to demonstrate that better informed patients have fewer acute episodes and hospitalizations and that patient education and counseling is cost effective as a covered service. The patient makes an appointment to receive services, but no fee is currently charged. The services include disease-state moni-

Inside:

- 2 HJR 9:
Clean Fuels Study Subcommittee
- 3 HJR 353:
A.L. Philpott Southside Economic
Development Commission

toring, a theme-type newsletter, videos, and informative pamphlets, as well as the one-on-one counseling, education, and training. The patient is taught to improve his health state, including proper nutrition and drug protocol compliance. The Bremono-Westhampton Pharmacy also provides unusual dispensing services, such as sterile compounding services for chemotherapy patients and traditional compounding services for unique dosage and therapy needs. A subissue of compounding services is the high cost of special containers—costs not reimbursed by third-party payors. An atypical, but essential, practice, the compounding service does not attempt to duplicate commercially available products and is estimated to be needed by less than one percent of all patients. Patients are referred from physicians and other pharmacies.

The Mechanicsville Drugstore, a traditional independent community pharmacy, is owned and operated by Tommy Thomson. A neighborhood institution since Mr. Thomson's father operated it, the Mechanicsville Drugstore has long-term employees, a solid reputation, and an old-fashioned drugstore lunch counter with many daily patrons. Although he views the problems of independent and chain pharmacies as identical, Mr. Thomson noted the changing relationship between the independent retail pharmacies and the drug manufacturing companies, explaining that the relationship had gone from friendly and cooperative to adversarial. The suffering of the retail business could also, he said, be attributed to restrictive health care plans which often lock out the small independent pharmacies. Noting that differential pricing was impacting their business as well as changes in insurance plans, Mr. Thomson explained that some patients had been with them for 40 years. Therefore, many patients who have been his customers for years have been forced to go elsewhere for pharmacy services because their health care plan will not reimburse Thomson's. For these and other reasons, the profit margins have decreased significantly in recent years. Mr. Thomson expressed hope for change with the passage of HB 840, relating to consumer freedom of choice.

The Pharmacy Care Center in the Peoples/CVS store on Lakeside Avenue was the final site-visit location. Michael Soiland, the counseling pharmacist, clarified that the center is operated through a lease arrangement by MonRoe Partners. Hoping to prove that consultation services are cost effective and thereby promote such services for capitated reimbursement, the center's purpose is to reduce the overall costs of health care, increase patient satisfaction, and improve the quality of the patient's life. Currently funded as a study by Blue Cross/Blue Shield, this program provides services to any BC/BS patient without charge and offers, for a fee, pharmacy care consultation services to all others, regardless of where the drugs are purchased. As part of this innovative service, the pharmacist provides written and oral instruction on proper medication use through a monthly appointment. During the monthly appointment, the pharmacist instructs the patient, conducts disease-state monitoring for asthma, diabetes, hypertension and high cholesterol patients, assists with medication compliance, and answers medication-related questions

and concerns. Written reports are made and medical profiles are maintained. Records are transmitted to physicians when the patient has an appointment. The typical patient, generally referred through the prescription procedure by the dispensing pharmacist, is over 50 years old, has asthma, diabetes, hypertension, or high cholesterol, and is taking five or six medications.

The July meeting of the joint subcommittee will continue the revised study schedule and may include a mail-order pharmacy site visit and invited presentations.



The Honorable Kenneth R. Melvin, *Chairman*
Legislative Services contact: Norma E. Szakal

HJR 9: Clean Fuels Study Subcommittee

June 7, 1994, Richmond

At its first meeting since being continued by the 1994 Session of the General Assembly, the Clean Fuels Study Subcommittee (formerly the Joint Subcommittee Studying the Use of Vehicles Powered by Clean Transportation Fuels) was briefed by staff on clean fuel legislation passed by the General Assembly since the group's creation in 1990 and discussed plans for the panel's future activities.

Additionally, the subcommittee received reports from the Department of Transportation and the Department of Environmental Quality on VDOT's clean fuel demonstration projects and DEQ's implementation of the motor vehicle scrappage program, enacted by the 1993 Session of the General Assembly. VDOT also briefed the group on the status of the Virginia Alternative Fuels Revolving Fund.

Preliminary data on vehicle performance and engine emissions for test vehicles powered by compressed natural gas (CNG) suggest that, compared to larger vehicles (such as pickup trucks), small vehicles (such as compact passenger cars) are not good candidates for conversion to CNG.

DEQ's 1993 scrappage program legislation will not become operational until (i) development of necessary regulations has been completed and (ii) statutorily required minimum funding of \$1 million has been provided. Preparation of these regulations will require another six to 10 months, but the timing and sources of funding are as yet unknown.

Since its creation by the General Assembly in 1992, the Virginia Alternative Fuels Revolving Fund has provided \$646,986 in grants to 21 localities and one college (with six localities receiving two grants each), making possible the purchase or conversion of 101 vehicles and one ferry boat using CNG, LPG (liquified petroleum gas), and electricity as motor fuels. The 1994 General Assembly made no appropriation to the fund beyond the 1994-95 fiscal year. VDOT will be submitting a comprehensive report on the fund in November of this year.

In discussing plans for future meetings, the subcommittee urged Chairman Giesen to invite Secretary of Natural Resources Dunlop to discuss with the members the role of clean fuels in Virginia's clean air strategy and the status of Virginia's discussions with the federal Environmental Protection Agency concerning the character, scope, and content of the Commonwealth's motor vehicle emissions inspection and maintenance program. Several members urged (i) the expansion of the subcommittee's focus to include non-vehicular sources of air pollution (such as lawn mowers), (ii) a briefing on the status of construction of fueling stations for alternative fuels, (iii) support for clean fuels legislation (HB 358 and SB 65) carried over by the 1994 Session, and (iv) an invitation to industry and agency representatives to present recommendations for legislation to stimulate increased use of alternative fuels.

The subcommittee's next meeting is tentatively scheduled for early to mid-August.



The Honorable Arthur R. Giesen, Jr., *Chairman*
Legislative Services contact: Alan B. Wambold

HJR 353: A.L. Philpott Southside Economic Development Commission

June 16, 1994, Danville

During its four years, the A.L. Philpott Southside Economic Development Commission has made numerous recommendations for the revitalization of the Southside region, including the establishment in 1991 of the Southside Business and Education Commission and the Southside Virginia Marketing Council and the Southside Virginia Development Authority in 1992. The Philpott Commission also supported the creation of the new Governor's School for Global Eco-

nomics and Technology in Southside Virginia and the A. L. Philpott Manufacturing Research Center at Patrick Henry Community College.

The commission received status reports from each of these entities. The 21-member **Southside Virginia Business and Education Commission (SVBEC)** received a \$20,000 grant from the Center on Rural Development (CORD) in 1992, a \$50,000 state appropriation in 1992-93, and \$15,000 from Southside localities to boost its initial organizational and research efforts. In 1994, the SVBEC expects to continue its support of the Southside Governor's School and to sponsor a third business and education forum in Southside. The 1994 Session of the General Assembly allocated \$75,000 to the SVBEC in each year of the 1994-96 fiscal biennium. Commission members asked the SVBEC to coordinate with the Governor's Commission on Champion Schools and to report to the commission in September regarding tech prep, dual enrollments, and other education initiatives that affect the general student population.

The **Southside Virginia Marketing Council** has met 10 times since its creation and has formed a Marketing Advisory Committee and a Research Advisory Committee to further its efforts in marketing the region to outside industry and in promoting the expansion of existing businesses. The council has distributed a Request for Proposals to elicit bids from parties interested in developing a multi-media computer marketing presentation for the Southside region.

The **A.L. Philpott Manufacturing Center** serves over 1,300 manufacturers in a 23-county region. By statute, the center's mission includes serving as a resource center for manufacturing modernization outreach; providing manufacturing technology consulting services; assisting in the implementation of advanced manufacturing technologies; and fostering the creation of manufacturing networks and the development of buyer and supplier relationships in Southside and throughout the Commonwealth. Annual state funding of \$150,000 supports 2.5 full-time equivalent positions at the center. Private sector donations totaling \$10,000 from three sources have also supported the center. Currently housed in rental office space in downtown Martinsville, the center is expected to move to a 25,000-square-foot addition to the Philpott Technical Center on the Patrick Henry Community College (PHCC) campus.

The **Governor's School for Global Technology and Applied Science** serves 228 students in 13 Southside school divisions (Amelia, Brunswick, Buckingham, Charlotte, Cumberland, Danville, Emporia/Greensville, Halifax/South Boston, Lunenburg, Mecklenburg, Nottoway, Pittsylvania, and Prince Edward). With central offices in Keysville and Danville, the Governor's School operates from sites at Averett College, Danville Community College, Longwood College, Saint Paul's College, and Southside Virginia Community College (Christanna and John H. Daniel campuses). The Governor's School received a \$410,000 state appropriation;

the remainder of its budget is supplied by tuition from the 13 participating localities. Further growth is expected as additional school divisions participate in the Governor's School in the future. Included on the school's "wish list" is computer linkage between the various sites and throughout the region, to facilitate interactive distance learning. The Governor's School now has a pupil-teacher ratio of 15:1.

The 1994 General Assembly authorized the commission to continue this year to monitor the implementation of its recommendations and to serve as a resource for these new entities. In addition, the legislature appropriated \$675,000 to the Philpott Commission for economic development projects in Southside Virginia. The grants are contingent upon matching local or private funds; additional awards criteria are to be developed by the commission. Representatives of several Southside localities offered suggestions for appropriate grants criteria.

Seven options for the application of the \$675,000 appropriation were reviewed. The commission might (i) allocate the full \$675,000 amount on a per capita basis; (ii) allocate the funds to existing regional entities, such as the SVBEC, the Development Authority, or the Marketing Council; (iii) establish a small business fund, to be matched by local and

federal sources; (iv) establish a competitive process for soliciting proposals and making grants for individual projects; (v) establish specific priorities and solicit proposals that address them; (vi) apply the funds to carry out commission projects that meet regional needs; and (vii) combine any of the previous options. The need to maximize a return on the \$675,000 was emphasized.

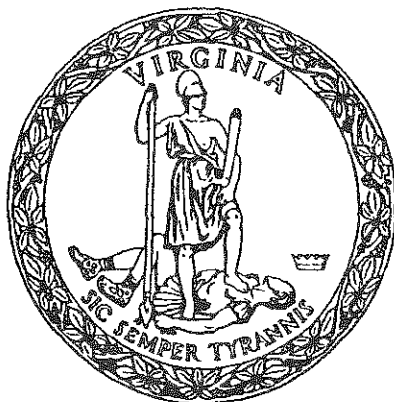
The commission adopted a resolution to join the Virginians for a Sound Tobacco Economy (VASTE) in its support of "the right to produce, sell and consume tobacco and in full support and recognition of the value of tobacco to the Commonwealth." The resolution specifically endorsed no new tobacco tax increase and the development of health care financing mechanisms that are not disproportionately burdensome to the tobacco industry.

The commission agreed to meet again in September to resolve administrative concerns regarding the disposition of the appropriation.



The Honorable Whittington W. Clement, *Chairman*
Legislative Services contact: Kathleen G. Harris

The Legislative Record summarizes the activities of Virginia legislative study commissions and joint subcommittees. Published in Richmond, Virginia, by the Division of Legislative Services, an agency of the General Assembly of Virginia.



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GENERAL NOTICES/ERRATA

Symbol Key †
† Indicates entries since last publication of the Virginia Register

GENERAL NOTICES

DEPARTMENT OF LABOR AND INDUSTRY

Notice to the Public

The Virginia State Plan for the enforcement of Virginia Occupational Safety and Health (VOSH) laws commits the Commonwealth to adopt regulations identical to, or as effective as, those promulgated by the U.S. Department of Labor, Occupational Safety and Health Administration.

Accordingly, public participation in the formulation of such regulations must be made during the adoption of such regulations at the federal level. Therefore, the Virginia Department of Labor and Industry is reissuing the following federal OSHA notice:

U. S. Department of Labor
Occupational Safety and Health Administration
29 CFR Part 1926
(Docket No. S-775)

SAFETY STANDARDS FOR STEEL ERECTION

AGENCY: Occupational Safety and Health Administration (OSHA)

ACTION: Notice of establishment of Negotiated Rulemaking Committee.

SUMMARY: The Occupational Safety and Health Administration (OSHA) is announcing its decision to establish a Steel Erection Negotiated Rulemaking Advisory Committee under the Negotiated Rulemaking Act (NRA) and the Federal Advisory Committee Act (FACA).

TEXT: Full text of the supplementary information concerning this notice can be found in Volume 59, No. 90, p. 24389 of the Federal Register.

DATES: The Charter will be filed on May 27, 1994.

ADDRESSES: Any written comments in response to this notice should be sent, in quadruplicate, to the following address: Docket Office, Docket S-775, Room N-2625, 200 Constitution Ave., N.W., Washington, DC 20210, telephone (202) 219-7894.

An additional copy should be submitted to the Director of Enforcement Policy, Department of Labor and Industry, 13

S. 13th St., Richmond, VA 23219.

Contact: James F. Foster, Office of Information and Consumer Affairs, OSHA, Room N-3647, 200 Constitution Ave., N.W., Washington, D.C. 20210, telephone (202) 219-8151.

Notice to the Public

The Virginia State Plan for the enforcement of Virginia Occupational Safety and Health (VOSH) laws commits the Commonwealth to adopt regulations identical to, or as effective as, those promulgated by the U.S. Department of Labor, Occupational Safety and Health Administration.

Accordingly, public participation in the formulation of such regulations must be made during the adoption of such regulations at the federal level. Therefore, the Department of Labor and Industry is reissuing the following federal OSHA notice:

U.S. Department of Labor
Occupational Safety and Health Administration
29 CFR Part 1926
(Docket No. S-775)

SAFETY STANDARDS FOR STEEL ERECTION

AGENCY: Occupational Safety and Health Administration (OSHA)

ACTION: Correction to Notice of Public Meeting; Appointment of members to advisory committee; and Notice of Organizational Meeting of Advisory Committee.

SUMMARY The Occupational Safety and Health Administration (OSHA) is correcting its announcement of the meeting of all parties interested in the Steel Erection Negotiated Rulemaking Advisory Committee (SENAC), selection of the Advisory Committee and the organizational meeting of SENAC from June 15-17, 1994, to June 14-16, 1994. The purpose of the meeting is to promote an understanding of the negotiated rulemaking process and to announce the selection of the Advisory Committee.

In addition, immediately following the informational meeting, an organizational meeting of SENAC will take place. Members will be sworn in and the committee will be charged with its duties and will address certain procedural matters. These meetings will be open to the public.

TEXT: Full text of the supplementary information concerning the meeting notice, appointment of advisory committee, and notice of organizational meeting of

advisory committee can be found in Volume 59, No. 95, p. 25848 of the Federal Register. (See also Volume 59, No. 96, p. 26153 of the Federal Register for correction of dates.)

DATES: The meetings will be held on June 14, 15 and 16, 1994. The informational meeting will begin at 10 a.m. on June 14, and the organizational meeting of the committee will begin at 1 p.m. on June 15, 1994.

ADDRESSES: The meetings will be held in the Waterford Room on June 14 and 15, and in the Haverford Room on June 16 of the Hyatt Regency Hotel in Bethesda, Maryland, telephone (301) 657-1234.

Any written comments in response to this notice should be sent, in quadruplicate, to the following address: Docket Office, Docket S-775, Room N-2625, U. S. Department of Labor, 200 Constitution Ave., N.W., Washington, D.C. 20210, telephone (202) 219-7894.

An additional copy should be submitted to the Director of Enforcement Policy, Department of Labor and Industry, 13 S. 13th St., Richmond, VA 23219.

Contact: James F. Foster, Office of Information and Consumer Affairs, OSHA, Room N-3647, 200 Constitution Ave., N.W., Washington, D.C. 20210, telephone (202) 219-8151.

VIRGINIA CODE COMMISSION

NOTICE TO STATE AGENCIES

Mailing Address: Our mailing address is: Virginia Code Commission, 910 Capitol Street, General Assembly Building, 2nd Floor, Richmond, VA 23219. You may FAX in your notice; however, we ask that you FAX two copies and do not follow up with a mailed copy. Our FAX number is: 371-0169.

FORMS FOR FILING MATERIAL ON DATES FOR PUBLICATION IN THE VIRGINIA REGISTER OF REGULATIONS

All agencies are required to use the appropriate forms when furnishing material and dates for publication in The Virginia Register of Regulations. The forms are supplied by the office of the Registrar of Regulations. If you do not have any forms or you need additional forms, please contact: Virginia Code Commission, 910 Capitol Street, General Assembly Building, 2nd Floor, Richmond, VA 23219, telephone (804) 786-3591.

FORMS:

NOTICE of INTENDED REGULATORY ACTION - RR01

NOTICE of COMMENT PERIOD - RR02
PROPOSED (Transmittal Sheet) - RR03
FINAL (Transmittal Sheet) - RR04
EMERGENCY (Transmittal Sheet) - RR05
NOTICE of MEETING - RR06
AGENCY RESPONSE TO LEGISLATIVE OR GUBERNATORIAL OBJECTIONS - RR08
DEPARTMENT of PLANNING AND BUDGET (Transmittal Sheet) - DPBRR09

ERRATA

STATE WATER CONTROL BOARD

Title of Regulation: VR 680-14-16. Virginia Pollutant Discharge Elimination System (VPDES) General Permit Regulation for Storm Water Discharges Associated with Industrial Activity from Heavy Manufacturing.

Publication: 10:15 VA.R. 4018-4041 April 18, 1994.

Corrections to Final Regulation:

Page 4022, column 1, last line, delete "[Latitude...Longitude...]"

Page 4022, column 2, subdivision 8, last line after "activity]?" insert "Yes...No..."

Page 4034, column 2, subdivision 3 d, line 6, after "A set of" insert "tracking or follow up procedures shall be used to ensure that appropriate"

* * * * *

Title of Regulation: VR 680-14-17. Virginia Pollutant Discharge Elimination System (VPDES) General Permit Regulation for Storm Water Discharge Associated with Industrial Activity from Light Manufacturing Facilities.

Publication: 10:15 VA.R. 4041-4061 April 18, 1994.

Corrections to Final Regulation:

Page 4043, column 1, paragraph 1, line 9, change "bonification" to "benefication"

Page 4052, column 2, subsection M, line 4, after "by this permit" strike "but in no case later than June 30, 1994"

Page 4057, column 1, subdivision (5), line 2, change "7 a" to "7 b"

Page 4057, column 1, subdivision (5) (a), line 2, change "a (1)" to "b (1)"

Page 4057, column 2, subdivision (6), lines 1 and 3,

General Notices/Errata

change "7 a" to "7 b"

* * * * *

Title of Regulation: VR 680-14-18. Virginia Pollutant Discharge Elimination System (VPDES) General Permit Regulation for Storm Water Discharges Associated with Industrial Activity from Transportation Facilities, Landfills, Land Application Sites and Open Dumps, Materials Recycling Facilities, and Steam Electric Power Generating Facilities.

Publication: 10:15 VA.R. 4061-4084 April 18, 1994.

Corrections to Final Regulation:

Page 4066, column 2, subdivision 4, line 3, after "individual" insert "VPDES"

Page 4067, column 1, § 7, line 1, change "owner/operator" to "owner"

Page 4075, column 2, subdivision B 1, line 4, change "Part II E" to "Part II C"

Page 4079, column 2, subdivision (5), line 2, change "7 a" to "7 b"

Page 4079, column 2, subdivision (5) (a), line 2, change "a (1)" to "b (1)"

Page 4080, column 1, subdivision (6), lines 2 and 4, change "7 a" to "7 b"

* * * * *

Title of Regulation: VR 680-41-01:1. Public Participation Guidelines.

Publication: 10:15 VA.R. 4114-4118 April 18, 1994.

Corrections to Final Regulation:

Page 4114, column 2, definition of "Environmental Protection Law," line 7, change "Chapter 35" to "Chapter 25"

Page 4117, column 2, subsection K, line 6, after "before" strike the second occurrence of "before"

CALENDAR OF EVENTS

Symbols Key

- † Indicates entries since last publication of the Virginia Register
☒ Location accessible to handicapped
☎ Telecommunications Device for Deaf (TDD)/Voice Designation

NOTICE

Only those meetings which are filed with the Registrar of Regulations by the filing deadline noted at the beginning of this publication are listed. Since some meetings are called on short notice, please be aware that this listing of meetings may be incomplete. Also, all meetings are subject to cancellation and The Virginia Register deadline may preclude a notice of such cancellation.

For additional information on open meetings and public hearings held by the Standing Committees of the Legislature during the interim, please call Legislative Information at (804) 786-6530.

VIRGINIA CODE COMMISSION

EXECUTIVE

BOARD FOR ACCOUNTANCY

July 18, 1994 - 10 a.m. - Open Meeting

July 19, 1994 - 8 a.m. - Open Meeting

Department of Professional and Occupational Regulation, 3600 West Broad Street, 4th Floor, Richmond, Virginia. ☒

A meeting to (i) review applications; (ii) review correspondence; (iii) contact review and disposition of enforcement files; (iv) conduct regulatory review; and (v) conduct routine board business. A public comment period will be scheduled during the meeting. No public comment will be accepted after that period; however, the meeting is open to the public. Persons desiring to participate in the meeting and requiring special accommodations or interpretive services should contact the department. The department fully complies with the Americans with Disabilities Act.

Contact: Nancy T. Feldman, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8590.

VIRGINIA AGRICULTURAL COUNCIL

† August 22, 1994 - 9 a.m. - Open Meeting

Embassy Suites Hotel, 2925 Emerywood Parkway, Richmond, Virginia ☒ (Interpreter for the deaf provided upon request)

An annual business meeting. The agenda will consist of an annual review of finances, progress reports on approved projects, and general business matters. The council will allot 30 minutes at the conclusion of the business meeting for the public to appear before the council. Any person who needs any accommodation in order to participate at the meeting should contact Thomas R. Yates at least 10 days before the meeting date so that suitable arrangements can be made for any appropriate accommodations.

Contact: Thomas R. Yates, Assistant Secretary, Virginia Agricultural Council, 1100 Bank St., Suite 203, Richmond, VA 23219, telephone (804) 786-6060.

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES (STATE BOARD OF)

† July 26, 1994 - 9 a.m. - Open Meeting

Henry County Administration Building, Board Meeting Room, King's Mountain Road, Collinsville, Virginia. ☒

At this regular meeting, the board plans to discuss legislation, regulations and fiscal matters and will receive reports from the staff of the Department of Agriculture and Consumer Services. The board may consider other matters relating to its responsibilities. At the conclusion of the other business, the board will review public comments for a period not to exceed 30 minutes. Any person who needs any accommodation in order to participate at the meeting should contact Roy E. Seward at least five days before the meeting date so that suitable arrangements can be made for any appropriate accommodation.

Contact: Roy E. Seward, Secretary to the Board, Department of Agriculture and Consumer Services, Washington Building, 1100 Bank St., Room 211, Richmond, VA 23219, telephone (804) 786-3535 or (804) 371-6344/TDD ☎

Pesticide Control Board

July 21, 1994 - 10 a.m. - Open Meeting

Department of Agriculture and Consumer Services, 1100 Bank Street, Richmond, Virginia. ☒

Pesticide Control Board committee meeting.

Contact: Dr. Marvin A. Lawson, Program Manager, Office of Pesticide Management, Department of Agriculture and Consumer Services, P. O. Box 1163, 1100 Bank Street, Room 401, Richmond, VA 23209, telephone (804) 371-6558.

Calendar of Events

July 22, 1994 - 9 a.m. - Open Meeting

Department of Agriculture and Consumer Services, 1100 Bank Street, Richmond, Virginia. ☒

A meeting to conduct general business and to adopt an amendment to VR 115-04-20, Rules and Regulations Governing the Pesticide Fees Charged by the Department of Agriculture and Consumer Services. Portions of the meeting may be held in closed session pursuant to § 2.1-344 of the Code of Virginia. The public will have an opportunity to comment on any matter not on the agenda at 9 a.m. Any person who needs any accommodations in order to participate at the meeting should contact Dr. Marvin A. Lawson at least 10 days before the meeting so that suitable arrangements can be made.

Contact: Dr. Marvin A. Lawson, Program Manager, Office of Pesticide Management, Department of Agriculture and Consumer Services, P. O. Box 1163, 1100 Bank St., Room 401, Richmond, VA 23209, telephone (804) 371-6558.

STATE AIR POLLUTION CONTROL BOARD

† July 14, 1994 - 9 a.m. - Open Meeting

Department of Environmental Quality, Innsbrook Corporate Center, 4900 Cox Road, Glen Allen, Virginia ☒ (Interpreter for the deaf provided upon request)

A regular meeting.

Contact: Cindy M. Berndt, Policy and Planning Supervisor, Department of Environmental Quality, P.O. Box 10009, 629 E. Main St., Richmond, VA 23240-1009, telephone (804) 762-4378.

ALCOHOLIC BEVERAGE CONTROL BOARD

July 11, 1994 - 9:30 a.m. - Open Meeting

July 25, 1994 - 9:30 a.m. - Open Meeting

August 8, 1994 - 9:30 a.m. - Open Meeting

August 22, 1994 - 9:30 a.m. - Open Meeting

September 7, 1994 - 9:30 a.m. - Open Meeting

September 19, 1994 - 9:30 a.m. - Open Meeting

Alcoholic Beverage Control Board, 2901 Hermitage Road, Richmond, Virginia. ☒

A meeting to receive and discuss reports and activities from staff members. Other matters not yet determined.

Contact: Robert N. Swinson, Secretary to the Board, Alcoholic Beverage Control Board, 2901 Hermitage Road, P. O. Box 27491, Richmond, VA 23261, telephone (804) 367-0616.

ASAP POLICY BOARD - VALLEY

July 11, 1994 - 8:30 a.m. - Open Meeting

Augusta County School Board Office, Fishersville, Virginia. ☒

A regular meeting of the local policy board which conducts business pertaining to the following:

1. Court referrals
2. Financial Report
3. Director's Report
4. Statistical Reports

Contact: Rhoda G. York, Executive Director, ASAP Policy Board, Holiday Court, Suite B, Staunton, VA 24401, telephone (703) 886-5616 or (703) 943-4405 (Waynesboro).

VIRGINIA ASBESTOS LICENSING BOARD

† September 21, 1994 - 9 a.m. - Open Meeting

Department of Professional and Occupational Regulation, 3600 W. Broad St., Conference Room 3, Richmond, Virginia ☒

A general meeting.

Contact: David E. Dick, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8595 or (804) 367-9753/TDD ☎

AUCTIONEERS BOARD

† September 9, 1994 - Written comments may be submitted through this date.

† September 20, 1994 - 9 a.m. - Public Hearing

Department of Professional and Occupational Regulation, 3600 West Broad Street, Conference Room 2, Richmond, Virginia.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Auctioneers Board intends to **repeal** regulations entitled: **VR 150-01-2. Rules and Regulations for the Virginia Board of Auctioneers** and **adopt** regulations entitled: **VR 150-01-2:1. Rules and Regulations for the Virginia Board of Auctioneers**. The proposed regulations establish entry requirements for licensure of auctioneers and auction firms, examination for licensure, licensure by reciprocity, standards of practice regarding advertising, contract, escrow accounts, records and the standards of conduct for auctioneers. The proposed regulations are a result of legislative amendments enacted to § 54.1-603 of the Code of Virginia, which repealed the registration and certification program for auctioneers and established a single licensure program.

Statutory Authority: §§ 54.1-201 and 54.1-602 of the Code of Virginia.

Contact: Willie Fobbs, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8514.

BOARD FOR BARBERS

August 8, 1994 - 9 a.m. - Open Meeting

Department of Professional and Occupational Regulation, 3600 West Broad Street, 4th Floor, Richmond, Virginia. ☎ (Interpreter for the deaf provided upon request)

A meeting to:

1. Review correspondence
2. Review examination contract
3. Conduct review and disposition of enforcement cases
4. Conduct routine board business

A public comment period will be scheduled during the meeting. No public comment will be accepted after that period. However, the meeting is open to the public. Any person who needs any accommodations in order to participate at the meeting should contact Karen O'Neal at least 10 days before the meeting date so that suitable arrangements can be made for an appropriate accommodation.

Contact: Karen O'Neal, Assistant Director, Board for Barbers, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-0500.

STATE BUILDING CODE TECHNICAL REVIEW BOARD

† **July 22, 1994 - 10 a.m. - Open Meeting**

The Jackson Center, 501 North Second Street, 1st Floor Conference Room, Richmond, Virginia. ☎ (Interpreter for the deaf provided upon request)

The Review Board hears administrative appeals concerning building and fire codes and other regulations of the department. The board also issues interpretations and formalizes recommendations to the Board of Housing and Community Development concerning future changes to the regulations.

Contact: Vernon W. Hodge, CPCA, Building Code Supervisor, Code Development Office, Department of Housing and Community Development, 501 N. Second St., Richmond, VA 23219-1321, telephone (804) 371-7170 or (804) 371-7089/TDD ☎

CHESAPEAKE BAY LOCAL ASSISTANCE BOARD

Central Area Review Committee

July 21, 1994 - 2 p.m. - Open Meeting

August 18, 1994 - 2 p.m. - Open Meeting

September 15, 1994 - 2 p.m. - CANCELLED

Chesapeake Bay Local Assistance Department, 8th Street Office Building, 8th and Broad Streets, 7th Floor, Conference Room, Richmond, Virginia. ☎ (Interpreter for the deaf provided upon request)

The committee will review Chesapeake Bay Preservation Area programs for the Central Area. Persons interested in observing should call the Chesapeake Bay Local Assistance Department to verify meeting time, location and schedule. Public comment will not be received at the committee meeting. Written comments, however, are welcome.

Contact: Receptionist, Chesapeake Bay Local Assistance Department, 805 E. Broad St., Richmond, VA 23219, telephone (804) 225-3440 or toll free 1-800-243-7229/TDD ☎

Northern Area Review Committee

July 21, 1994 - 10 a.m. - Open Meeting

August 18, 1994 - 10 a.m. - Open Meeting

September 15, 1994 - 10 a.m. - CANCELLED

Chesapeake Bay Local Assistance Department, 8th Street Office Building, 8th and Broad Streets, 7th Floor, Conference Room, Richmond, Virginia. ☎ (Interpreter for the deaf provided upon request)

The committee will review Chesapeake Bay Preservation Area programs for the Northern Area. Persons interested in observing should call the Chesapeake Bay Local Assistance Department to verify meeting time, location and schedule. Public comment will not be received at the committee meeting. Written comments, however, are welcome.

Contact: Receptionist, Chesapeake Bay Local Assistance Department, 805 E. Broad St., Richmond, VA 23219, telephone (804) 225-3440 or toll free 1-800-243-7229/TDD ☎

Regulatory Committee

July 20, 1994 - 10 a.m. - Open Meeting

Chesapeake Bay Local Assistance Department, 8th Street Office Building, 8th and Broad Streets, 7th Floor, Conference Room, Richmond, Virginia. ☎ (Interpreter for the deaf provided upon request)

The committee will consider for presentation to the full board recommendations for amending the Chesapeake Bay Preservation Area Designation and Management Regulations (VR 173-02-01). Persons interested in observing should call the Chesapeake Bay Local Assistance Department to verify meeting time, location and schedule. Public comment will not be

Calendar of Events

received at the committee meeting. Written comments, however, are welcome.

Contact: Receptionist, Chesapeake Bay Local Assistance Department, 805 E. Broad St., Richmond, VA 23219, telephone (804) 225-3440 or toll free 1-800-243-7229/TDD ☎

Southern Area Review Committee

July 27, 1994 - 10 a.m. — Open Meeting

August 24, 1994 - 10 a.m. — Open Meeting

September 28, 1994 - 10 a.m. — Open Meeting

Chesapeake Bay Local Assistance Department, 8th Street Office Building, 8th and Broad Streets, 7th Floor, Conference Room, Richmond, Virginia. ☎ (Interpreter for the deaf provided upon request)

The committee will review local Chesapeake Bay Preservation Area programs for the Southern Area. Persons interested in observing should call the Chesapeake Bay Local Assistance Department to verify meeting time, location and schedule. Public comment will not be received at the committee meeting. Written comments, however, are welcome.

Contact: Receptionist, Chesapeake Bay Local Assistance Department, 805 E. Broad St., Richmond, VA 23219, telephone (804) 225-3440 or toll free 1-800-243-7229/TDD ☎

CHILD DAY-CARE COUNCIL

July 14, 1994 - 9:30 a.m. — Open Meeting

Theater Row Building, 730 East Broad Street, Lower Level, Conference Room 1, Richmond, Virginia. ☎ (Interpreter for the deaf provided upon request)

The council will meet to discuss issues, concerns and programs that impact child day centers, camps, school age programs, and preschool/nursery schools. The public comment period will be at 10 a.m. Please call ahead of time for possible changes in meeting time.

Contact: Peggy Friedenberg, Legislative Analyst, Office of Governmental Affairs, Department of Social Services, Theater Row Building, 730 E. Broad St., Richmond, VA 23219, telephone (804) 692-1820.

INTERDEPARTMENTAL REGULATION OF CHILDREN'S RESIDENTIAL FACILITIES

Coordinating Committee

July 15, 1994 - 8:30 a.m. — Open Meeting

Theater Row Building, Office of the Coordinator, Interdepartmental Regulation, 730 East Broad Street, Richmond, Virginia. ☎

A regularly scheduled meeting to consider such administrative and policy issues as may be presented

to the committee. A period for public comment is provided at the meeting.

Contact: John J. Allen, Jr., Coordinator, Office of the Coordinator, Interdepartmental Regulation, 730 E. Broad St., Richmond, VA 23219-1849, telephone (804) 692-1960.

STATE BOARD FOR COMMUNITY COLLEGES

July 20, 1994 - 1 p.m. — Open Meeting

James Monroe Building, 101 North 14th Street, 15th Floor, Richmond, Virginia.

State board committee meetings will be held.

Contact: Joy S. Graham, Assistant Chancellor, Public Affairs, Virginia Community College System, 101 N. 14th St., 15th Floor, Richmond, VA 23219, telephone (804) 225-2126 or (804) 371-8504/TDD ☎

July 21, 1994 - 9 a.m. — Open Meeting

James Monroe Building, 101 North 14th Street, 15th Floor, Richmond, Virginia.

A regularly scheduled meeting.

Contact: Joy S. Graham, Assistant Chancellor, Public Affairs, Virginia Community College System, 101 N. 14th St., 15th Floor, Richmond, VA 23219, telephone (804) 225-2126 or (804) 371-8504/TDD ☎

COMPENSATION BOARD

† **July 28, 1994 - 1 p.m. — Open Meeting**

† **August 25, 1994 - 1 p.m. — Open Meeting**

Ninth Street Office Building, 202 North Ninth Street, 9th Floor, Room 913/913A, Richmond, Virginia. ☎ (Interpreter for the deaf provided upon request)

A routine meeting to conduct business.

Contact: Bruce W. Haynes, Executive Secretary, Compensation Board, P. O. Box 710, Richmond, VA 23206-0686, telephone (804) 786-3886/TDD ☎

DEPARTMENT OF CONSERVATION AND RECREATION

Falls of the James Scenic River Advisory Board

† **July 15, 1994 - Noon — Open Meeting**

City Hall, Planning Commission Conference Room, Fifth Floor, Richmond, Virginia.

A meeting to review river issues and programs.

Contact: Richard G. Gibbons, Environmental Program Manager, Department of Conservation and Recreation, Division of Planning and Recreation Resources, 203

Governor St., Suite 326, Richmond, VA 23219, telephone (804) 786-4132 or (804) 786-2121/TDD ☎

Contact: Vivian Toler, Secretary to the Board, 6900 Atmore Drive, Richmond, VA 23225, telephone (804) 674-3235.

BOARD FOR CONTRACTORS

† July 13, 1994 - 9 a.m. - Open Meeting
Department of Professional and Occupational Regulation,
3600 West Broad Street, Richmond, Virginia. ☎

A regularly scheduled quarterly meeting of the board which will address policy and procedural issues, review and render decisions on applications for contractor's licenses, and review and render case decisions on matured complaints against licensees. The meeting is open to the public; however, a portion of the board's business may be discussed in Executive Session.

Contact: Geralde W. Morgan, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-2945.

STATE CORPORATION COMMISSION

† July 28, 1994 - 10 a.m. - Public Hearing
Tyler Building, 1300 East Main Street, 2nd Floor, Commission Courtroom, Richmond, Virginia. ☎ (Interpreter for the deaf provided upon request)

The Virginia State Corporation Commission will conduct a public hearing for the purpose of receiving comments from interested parties with respect to adjusted prima facie rates proposed by the Commission's Bureau of Insurance for credit life insurance and credit accident and sickness insurance pursuant to the provisions of Chapter 37.1 (§ 38.2-371 et seq.) of Title 38.2 of the Code of Virginia. Copies of the proposed adjusted prima facie credit life and credit accident and sickness insurance rates may be obtained from the Office of the Clerk of the Commission.

Contact: Robert L. Wright, III, Principal Insurance Market Examiner, State Corporation Commission, P. O. Box 1197, Richmond, VA 23209, telephone (804) 371-9154, toll free 1-800-552-7945 or (804) 371-9206/TDD ☎

DEPARTMENT OF CORRECTIONS (STATE BOARD OF)

July 20, 1994 - 10 a.m. - Open Meeting
† August 17, 1994 - 10 a.m. - Open Meeting
Board of Corrections Board Room, 6900 Atmore Drive, Richmond, Virginia. ☎

A meeting to discuss matters as may be presented to the board.

BOARD FOR COSMETOLOGY

July 11, 1994 - 10 a.m. - Open Meeting
Department of Professional and Occupational Regulation,
3600 West Broad Street, Richmond, Virginia. ☎

A general business meeting. Persons desiring to participate in the meeting and requiring special accommodations or interpretive services should contact Karen W. O'Neal. The department fully complies with the Americans with Disabilities Act. Please notify the department of your request for accommodation at least two weeks in advance for consideration of your request.

Contact: Karen W. O'Neal, Assistant Director, Board of Cosmetology, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-0500 or (804) 367-9753/TDD ☎

DEPARTMENT OF CRIMINAL JUSTICE SERVICES (CRIMINAL JUSTICE SERVICES BOARD)

August 26, 1994 - Written comments may be submitted through this date.

October 5, 1994 - 9 a.m. - Public Hearing
General Assembly Building, 910 Capitol Street, House Room D, Richmond, Virginia.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Criminal Justice Services Board intends to adopt regulations entitled: **VR 240-01-15. Rules Relating to Compulsory Minimum Training Standards For Radar Operators.** The proposed regulations include specific training requirements for public law-enforcement officers employed by state and local law-enforcement agencies who operate radar as part of their assigned duties. These training standards include 18 performance based training objectives which each officer required to operate radar must meet prior to being able to operate the unit. Training for radar operators under the proposed regulations may be done at the employing agency by a certified radar operator instructor and records of the training provided are to be maintained by the employing agency. Retraining is required by December 31 of every third calendar year to ensure that the operating officer has retained proficiency in the operation of the speed measurement device. Provisions are available for the exemption or partial exemption of the training requirement based upon previous training and experience.

Statutory Authority: § 9-170(3a) of the Code of Virginia.

Written comments may be submitted through August 26,

Calendar of Events

1994, to L.T. Eckenrode, Department of Criminal Justice Services, 805 E. Broad St., Richmond, VA 23219.

Contact: Paula Scott-Dehetre, Executive Assistant, Department of Criminal Justice Services, 805 E. Broad St., Richmond, VA 23219, telephone (804) 786-4000.

Private Security Services Advisory Board

† **July 27, 1994 - 10 a.m.** — Open Meeting
Fairfax County Public Safety Center, 4100 Chain Bridge Road, Fairfax, Virginia ☒

A meeting to discuss private security industry issues.

Contact: Roy Huhta, Assistant, Department of Criminal Justice Services, Private Security Section, P. O. Box 10110, Richmond, VA 23240-9998, telephone (804) 786-4700.

BOARD OF DENTISTRY

July 8, 1994 - 9 a.m. — Open Meeting
July 15, 1994 - 9 a.m. — Open Meeting
July 22, 1994 - 9 a.m. — Open Meeting
Department of Health Professions, 6606 West Broad Street, 4th Floor, Richmond, Virginia. ☒

Informal conferences. This is a public meeting; however, no public comment will be taken.

Contact: Marcia J. Miller, Executive Director, Board of Dentistry, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9906.

BOARD OF EDUCATION

July 28, 1994 - 8:30 a.m. — Open Meeting
General Assembly Building, 910 Capitol Street, Richmond, Virginia. ☒ (Interpreter for the deaf provided upon request)

The Board of Education and the Board of Vocational Education will hold a regularly scheduled meeting. Business will be conducted according to items listed on the agenda. The agenda is available upon request.

Contact: Dr. William C. Bosher, Jr., Superintendent of Public Instruction, Department of Education, P. O. Box 2120, Richmond, VA 23216-2120, telephone (804) 225-2023 or toll free 1-800-292-3820.

LOCAL EMERGENCY PLANNING COMMITTEE - COUNTY OF MONTGOMERY/TOWN OF BLACKSBURG

† **September 13, 1994 - 3 p.m.** — Open Meeting
Montgomery County Courthouse, 3rd Floor, Board of Supervisors Room, Christiansburg, Virginia. ☒

A meeting to discuss the development of a Hazardous Materials Emergency Response Plan for Montgomery County and the Town of Blacksburg.

Contact: Steve Via, New River Valley Planning District Commission, P. O. Box 3726, Radford, VA 24143, telephone (703) 639-9313 or FAX (703) 831-6093.

LOCAL EMERGENCY PLANNING COMMITTEE - PRINCE WILLIAM COUNTY, MANASSAS CITY, AND MANASSAS PARK CITY

† **July 18, 1994 - 1:30 p.m.** — Open Meeting
One County Complex Court, Potomac Conference Room, Prince William, Virginia. ☒

A multi-jurisdictional local emergency planning committee to discuss issues related to hazardous substances in the jurisdictions. SARA Title III provisions and responsibilities for hazardous material emergency response planning.

Contact: John E. Medici, Hazardous Materials Officer, One County Complex Court, Internal Zip MC470, Prince William, VA 22192, telephone (703) 792-6800.

VIRGINIA EMPLOYMENT COMMISSION

July 15, 1994 — Written comments may be submitted through this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Virginia Employment Commission intends to amend regulations entitled: **VR 300-01-1. Definitions and General Provisions.** The proposed amendment encompasses changes to public participation guidelines in response to the 1993 amendment of the Virginia Administrative Process Act and adds definitions for terms used within VEC regulations.

Statutory Authority: § 60.2-111 of the Code of Virginia.

Contact: Michael P. Maddox, Legislative Analyst, Virginia Employment Commission, P. O. Box 1358, Richmond, VA 23211, telephone (804) 786-1070.

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July 15, 1994 — Written comments may be submitted through this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Virginia Employment Commission intends to amend regulations entitled: **VR 300-01-2. Unemployment Taxes.** The proposed amendment clarifies existing provisions to enhance ease of use.

Statutory Authority: § 60.2-111 of the Code of Virginia.

Contact: Michael P. Maddox, Legislative Analyst, Virginia Employment Commission, P. O. Box 1358, Richmond, VA 23211, telephone (804) 786-1070.

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July 15, 1994 – Written comments may be submitted through this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Virginia Employment Commission intends to **repeal** regulations entitled: **VR 300-01-3. Benefits and adopt regulations** entitled: **VR 300-01-3.1. Required Records and Reports.** The purpose of the proposed amendment is to repeal current VR 300-01-3 and adopt new VR 300-01-3.1 in order to clarify and reorganize existing provisions within VEC regulations.

Statutory Authority: § 60.2-111 of the Code of Virginia.

Contact: Michael P. Maddox, Legislative Analyst, Virginia Employment Commission, P. O. Box 1358, Richmond, VA 23211, telephone (804) 786-1070.

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July 15, 1994 – Written comments may be submitted through this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Virginia Employment Commission intends to **repeal** regulations entitled: **VR 300-01-4. Adjudication and adopt regulations** entitled: **VR 300-01-4.1. Combined Employer Accounts.** The purpose of the proposed amendment is to repeal current VR 300-01-4 and adopt VR 300-01-4.1 in order to clarify and reorganize existing provisions within VEC regulations.

Statutory Authority: § 60.2-111 of the Code of Virginia.

Contact: Michael P. Maddox, Legislative Analyst, Virginia Employment Commission, P. O. Box 1358, Richmond, VA 23211, telephone (804) 786-1070.

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July 15, 1994 – Written comments may be submitted through this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Virginia Employment Commission intends to adopt regulations entitled: **VR 300-01-5. Employer Elections to Cover Multi-state Workers.** The proposed regulation would promulgate existing provisions in a new form in order to facilitate greater ease of use.

Statutory Authority: § 60.2-111 of the Code of Virginia.

Contact: Michael P. Maddox, Legislative Analyst, Virginia Employment Commission, P. O. Box 1358, Richmond, VA 23211, telephone (804) 786-1070.

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July 15, 1994 – Written comments may be submitted through this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Virginia Employment Commission intends to adopt regulations entitled: **VR 300-01-6. Benefits.** The proposed regulation would promulgate existing provisions in a new form in order to facilitate greater ease of use.

Statutory Authority: § 60.2-111 of the Code of Virginia.

Contact: Michael P. Maddox, Legislative Analyst, Virginia Employment Commission, P. O. Box 1358, Richmond, VA 23211, telephone (804) 786-1070.

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July 15, 1994 – Written comments may be submitted through this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Virginia Employment Commission intends to adopt regulations entitled: **VR 300-01-7. Interstate and Multi-state Claimants.** The proposed regulation would promulgate existing provisions in a new form in order to facilitate greater ease of use.

Statutory Authority: § 60.2-111 of the Code of Virginia.

Contact: Michael P. Maddox, Legislative Analyst, Virginia Employment Commission, P. O. Box 1358, Richmond, VA 23211, telephone (804) 786-1070.

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July 15, 1994 – Written comments may be submitted through this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Virginia Employment Commission intends to adopt regulations entitled: **VR 300-01-8. Adjudication.** The proposed regulation would promulgate existing provisions in a new form in order to facilitate greater ease of use.

Statutory Authority: § 60.2-111 of the Code of Virginia.

Contact: Michael P. Maddox, Legislative Analyst, Virginia Employment Commission, P. O. Box 1358, Richmond, VA 23211, telephone (804) 786-1070.

Calendar of Events

DEPARTMENT OF ENVIRONMENTAL QUALITY

Technical Advisory Committee

† July 21, 1994 - 10 a.m. - Open Meeting
† August 11, 1994 - 10 a.m. - Open Meeting
† September 1, 1994 - 10 a.m. - Open Meeting
Department of Environmental Quality, 629 East Main Street, 4th Floor Conference Room, Richmond, Virginia. ☒

The committee will meet in three sessions to assist the development of amendments to Financial Assurance Regulations for Solid Waste Disposal Facilities (Sanitary Landfills), VR 672-20-1. The draft of amended regulations developed as a result of these meetings will be presented to the Virginia Waste Management Board for consideration. If approved by the board, the proposed amendments will be further considered in public participation proceedings in accord with Public Participation Guidelines, VR 672-01-01:1.

Contact: Wladimir Gulevich, Ph.D., P.E., ORPD, Department of Environmental Quality, P. O. Box 10009, Richmond, VA 23240-0009, telephone (804) 762-4218 or (804) 762-4021/TDD ☎

Work Group on Detection/Quantitation Levels

September 14, 1994 - 1:30 p.m. - Open Meeting
Department of Environmental Quality, 4949 Cox Road, Lab Training Room, Room 111, Glen Allen, Virginia.

The department has established a work group on detection quantitation levels for pollutants in the regulatory and enforcement programs. The work group will advise the Director of Environmental Quality. Other meetings of the work group have been scheduled at the same time and location for September 28, October 12, October 26, November 9, November 30, and December 14. However, these dates are not firm. Persons interested in the meetings of this work group should confirm the date with the contact person below.

Contact: Alan J. Anthony, Chairman, Department of Environmental Quality, 4900 Cox Road, Glen Allen, VA 23060, telephone (804) 527-5070.

Virginia Pollution Prevention Advisory Committee

August 18, 1994 - 1 p.m. - Open Meeting
Department of Environmental Quality, Innsbrook Corporate Center, 4900 Cox Road, Glen Allen, Virginia. ☒

A quarterly meeting. The advisory committee has been established to assist the Department of Environmental Quality in its implementation of voluntary pollution prevention technical assistance throughout the Commonwealth.

Contact: Bill Sarnecky, Environmental Engineer Senior, Department of Environmental Quality, P. O. Box 10009, Richmond, VA 23240-0009, telephone (804) 762-4347.

DEPARTMENT OF GAME AND INLAND FISHERIES (BOARD OF)

July 14, 1994 - 9 a.m. - Open Meeting
July 15, 1994 - 9 a.m. - Open Meeting
Department of Game and Inland Fisheries, 4010 West Broad Street, Richmond, Virginia. ☒ (Interpreter for the deaf provided upon request)

The Board of Game and Inland Fisheries will meet to set the 1994-95 webless migratory game bird seasons (mourning dove, woodcock and rails), and intends to take final action on a proposed regulation that will provide for the use of crossbows for hunting deer during the special archery season by persons with permanent physical disabilities. The proposed regulation for the use of crossbows for hunting deer will be restricted to the individual's own property only. In addition, the board will consider rescinding VR 325-02-27, § 14, which allows disabled persons who possess appropriate permits from Virginia game wardens to shoot wild birds and wild animals from stationary vehicles.

The board intends to act on its proposed regulation and take final action to change the situs for boat registrations for personal taxation purposes and military status.

The board will consider a proposal to allow taxidermists, with the proper permits from the Department of Game and Inland Fisheries, to sell unclaimed taxidermy specimens, including whole mounts or parts thereof. The proposal allowing for the disposal of taxidermy specimens would limit the amount that could be charged to the balance remaining on the original invoice, including taxidermy services and reasonable storage fees. The sale of black bear specimens or parts thereof is specifically prohibited.

It will also review and may change its policy for license agent appointment and removal and discuss possible legislative proposals for the 1995 General Assembly session.

Other general and administrative matters, as necessary, may be discussed, and appropriate actions may be taken. The board will hold an executive session during this meeting.

PLEASE NOTE: THE BOARD HAS CHANGED ITS MEETING PROCEDURE. PUBLIC COMMENT IS NOW ACCEPTED ON THE FIRST MEETING DAY. IF THE BOARD COMPLETES ITS MEETING AGENDA ON JULY 14, IT WILL NOT CONVENE A MEETING ON

JULY 15.

Contact: Belle Harding, Secretary to the Director, Department of Game and Inland Fisheries, 4010 W. Broad St., P.O. Box 11104, Richmond, VA 23230-1104, telephone (804) 367-9231.

BOARD FOR GEOLOGY

† **August 11, 1994 - 9 a.m.** — Open Meeting
Department of Professional and Occupational Regulation,
3600 West Broad Street, Conference Room 2, Richmond,
Virginia. ☐

† **August 12, 1994 - 10 a.m.** — Open Meeting
Department of Professional and Occupational Regulation,
3600 West Broad Street, Conference Room 3, Richmond,
Virginia. ☐

A general meeting.

Contact: David A. Vest, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8307 or (804) 367-9753/TDD ☐

DEPARTMENT OF HEALTH (STATE BOARD OF)

† **August 1, 1994 - 10 a.m.** — Public Hearing
James Madison Building, 109 Governor Street, Richmond,
Virginia.

† **September 9, 1994** — Written comments may be submitted through this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Board of Health intends to amend regulations entitled: **VR 355-29-100. Board of Health Regulations Governing Vital Records.** Section 32.1-273 of the Code of Virginia authorizes the Board of Health to prescribe a fee, not to exceed \$5.00, for searching and certification of vital records of birth, death, marriage, and divorce. Senate Bill 402, passed by the 1994 General Assembly, raises the maximum limit on vital records fees to \$8.00. Accordingly, the proposed regulations raise the current fee of \$5.00 to the new fee of \$8.00. Comments on the costs and benefits of the proposal are requested.

Statutory Authority: § 32.1-273 of the Code of Virginia.

Contact: Deborah M. Little, Director, Office of Vital Records and Health Statistics, P. O. Box 1000, Richmond, VA 23208-1000, telephone (804) 371-6077 or FAX (804) 371-4800.

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August 3, 1994 - 9:30 a.m. — Public Hearing

Department of Health, Office of Emergency Medical Services, 1538 East Parham Road, Richmond, Virginia.

August 27, 1994 — Written comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Board of Health intends to amend regulations entitled: **VR 355-33-500. Rules and Regulations for the Licensure of Hospitals in Virginia.** Pursuant to the Commonwealth's efforts to increase organ, tissue and eye donation, the routine contact protocol regulations are an effort to ensure all families of medically suitable donors are given the opportunity to consider organ, tissue and eye donation. The regulations strengthen the donor program through the application of uniform requirements for hospitals to inform families of organ donor options. Implementation of the proposed regulations will help ensure families of donor candidates are advised of the options available and give them the opportunity to make their own decisions to donate. Comments on the costs and benefits of the proposal are requested.

Statutory Authority: §§ 32.1-12 and 32.1-127 of the Code of Virginia.

Written comments may be submitted until August 27, 1994, to Nancy Hofheimer, Director, Office of Health Facilities Regulation, 3600 W. Broad St., Suite 216, Richmond, VA 23230 or FAX (804) 367-2149.

Contact: Carrie Eddy, Policy Analyst, Department of Health, Office of Health Facilities Regulation, 3600 W. Broad St., Suite 216, Richmond, VA 23230, telephone (804) 367-2102 or FAX (804) 367-2149.

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August 3, 1994 - 1 p.m. — Public Hearing
Department of Health, Office of Emergency Medical Services, 1538 East Parham Road, Richmond, Virginia.

August 27, 1994 — Written comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Board of Health intends to amend regulations entitled: **VR 355-33-500. Rules and Regulations for the Licensure of Hospitals in Virginia.** Discharge planning services link patients departing the hospital with appropriate community resources, a service that is especially important for drug-exposed infants and their mothers. Implementation of the proposed regulations will strengthen hospital discharge planning for substance abusing postpartum women through the application of uniform requirements for informing substance abusing women of treatment services available in the community. Comments on the cost and benefits of the proposal are requested.

Calendar of Events

Statutory Authority: §§ 32.1-12 and 32.1-127 of the Code of Virginia.

Written comments may be submitted until August 27, 1994, to Nancy Hofheimer, Director, Office of Health Facilities Regulation, 3600 W. Broad St., Suite 216, Richmond, VA 23230 or FAX (804) 367-2149.

Contact: Carrie Eddy, Policy Analyst, Department of Health, Office of Health Facilities Regulation, 3600 W. Broad St., Suite 216, Richmond, VA 23230, telephone (804) 367-2102 or FAX (804) 367-2149.

Food Service Advisory Committee

July 28, 1994 - 10 a.m. - Open Meeting
Department of Housing and Community Development, Jackson Center, 501 N. Second Street, Second Floor Conference Room, Richmond, Virginia. ☒

A regular meeting. This committee meets at least once a year to discuss and recommend food service policy, regulation and programmatic changes to the Commissioner of Health for implementation.

Contact: John E. Benko, Division Director, Division of Food and Environmental Health, 1500 E. Main St., P. O. Box 2448, Suite 115, Richmond, VA 23218, telephone (804) 786-3559.

Virginia HIV Prevention Community Planning Committee

† **July 14, 1994 - 8 a.m. - Open Meeting**
† **August 11, 1994 - 8 a.m. - Open Meeting**
The Sheraton Inn-Richmond Airport, 4700 South Laburnum Avenue, Richmond, Virginia. ☒ (Interpreter for the deaf provided upon request)

The committee will continue to work on a comprehensive HIV Prevention Plan for the Commonwealth.

Contact: Elaine Martin, Coordinator, AIDS Education, P. O. Box 2448, Richmond, VA 23218, telephone (804) 786-0877 or toll free 1-800-533-4148/TDD ☎

Commissioner's Waterworks Advisory Committee

† **July 21, 1994 - 10 a.m. - Open Meeting**
Office of Water Programs, Danville Field Office, 1347 Piney Forest Road, Danville, Virginia.

A general business meeting. The committee meets the 3rd Thursday of odd months at various locations around the state. The schedule is as follows: September 15, 1994; November 17, 1994; and January 19, 1995. Locations will be announced.

Contact: Thomas B. Gray, P.E., Special Projects Manager, Division of Water Supply Engineering, 1500 E. Main St., Room 109, Richmond, VA 23219, telephone (804) 786-5566.

BOARD OF HEALTH PROFESSIONS

Regulatory Research Committee

† **July 11, 1994 - 9 a.m. - Open Meeting**
Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 4, Richmond, Virginia. ☒ (Interpreter for the deaf provided upon request)

The committee will continue review of the scope of practice of optometry and plan further activity related to the need to regulate outpatient audiovascular and pulmonary rehabilitation services, and dieticians and nutritionists. A schedule for the review of levels and methods of the regulation of health professions will be discussed and approved. Public comments are invited at 11:30 a.m.

Contact: Richard D. Morrison, Deputy Director for Research, Department of Health Professions, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9904 or (804) 662-7197/TDD ☎

VIRGINIA HEALTH SERVICES COST REVIEW COUNCIL

August 30, 1994 - 9:30 a.m. - Open Meeting
Blue Cross/Blue Shield, 2015 Staples Mill Road, Richmond, Virginia. ☒

A monthly meeting.

Contact: Kim Bolden Walker, Public Relations Coordinator, Virginia Health Services Cost Review Council, 805 E. Broad St., 6th Floor, Richmond, VA 23219, telephone (804) 786-6371.

STATE COUNCIL OF HIGHER EDUCATION FOR VIRGINIA

July 12, 1994 - 9:30 a.m. - Open Meeting
University of Richmond, Maryland Way, Richmond, Virginia.

A general business meeting.

Contact: Anne M. Pratt, Associate Director, State Council of Higher Education for Virginia, 101 N. 14th St., 9th Floor, Richmond, VA 23219, telephone (804) 225-2629.

HOPEWELL INDUSTRIAL SAFETY COUNCIL

August 2, 1994 - 9 a.m. - Open Meeting
September 6, 1994 - 9 a.m. - Open Meeting
Hopewell Community Center, Second and City Point Road, Hopewell, Virginia. ☒ (Interpreter for the deaf provided upon request)

Local Emergency Preparedness Committee Meeting on

emergency preparedness as required by SARA Title III.

Contact: Robert Brown, Emergency Service Coordinator, 300 North Main Street, Hopewell, VA 23860, telephone (804) 541-2298.

VIRGINIA HOUSING DEVELOPMENT AUTHORITY

† July 19, 1994 - 11 a.m. - Open Meeting

Virginia Housing Development Authority, 601 South Belvidere Street, Richmond, Virginia. ☎

An annual meeting of the Board of Commissioners of the Virginia Housing Development Authority. The Board of Commissioners will (i) elect the Chairman and Vice Chairman; (ii) review and, if appropriate, approve the minutes from the prior monthly meeting; (iii) consider for approval and ratification mortgage loan commitments under its various programs; (iv) review the authority's operations for the prior month; and (v) consider such other matters and take such other actions as it may deem appropriate. Various committees of the Board of Commissioners may also meet before or after the regular meeting and consider matters within their purview. The planned agenda of the meeting will be available at the offices of the authority one week prior to the date of the meeting. The annual meetings of the shareholders and the board of directors of Housing for Virginia, Inc., a wholly owned subsidiary of the authority, will also be held following the meeting of the Board of Commissioners of the authority. At the annual meeting of the shareholders, the board of directors will be elected and other business properly before the meeting may be considered. At the meeting of the board of directors, officers of the corporation will be elected and other business properly before the meeting may be considered.

Contact: J. Judson McKellar, Jr., General Counsel, Virginia Housing Development Authority, 601 S. Belvidere St., Richmond, VA 23220, telephone (804) 782-1986.

COUNCIL ON INFORMATION MANAGEMENT

† July 15, 1994 - 9 a.m. - Open Meeting

Washington Building, 1100 Bank Street, 9th Floor Conference Room, Richmond, Virginia. ☎

A regular business meeting.

Contact: Linda Hening, Administrative Staff Specialist, Council on Information Management, 1100 Bank St., Richmond, VA 23219, telephone (804) 225-3622 or (804) 225-3624/TDD ☎

Local Government Advisory Committee

† July 15, 1994 - 1 p.m. - Open Meeting
Washington Building, 1100 Bank Street, 6th Floor Conference Room, Richmond, Virginia. ☎

A regular meeting.

Contact: Jerry Simonoff, Information Technology Manager, Council on Information Management, 1100 Bank St., Suite 901, Richmond, VA 23219, telephone (804) 786-7711 or (804) 225-3624/TDD ☎

DEPARTMENT OF LABOR AND INDUSTRY

Safety and Health Codes Board

July 19, 1994 - 10 a.m. - Open Meeting

General Assembly Building, 910 Capitol Street, House Room C, Richmond, Virginia. ☎ (Interpreter for the deaf provided upon request)

The tentative agenda items for consideration by the board include:

1. Permit-Required Confined Spaces for General Industry, Amendment, § 1910.146, VR 425-02-92.
2. General Industry Standard for Electrical Power Generation, Transmission and Distribution, § 1910.269, VR 425-02-97; Amendment to Electrical Protective Equipment, § 1910.137, VR 425-02-151.

Contact: John J. Crisanti, Director, Enforcement Policy, Department of Labor and Industry, Powers-Taylor Building, 13 S. 13th St., Richmond, VA 23219, telephone (804) 786-2384 or (804) 786-2376/TDD ☎

STATE LAND EVALUATION ADVISORY COUNCIL

† August 12, 1994 - 10 a.m. - Open Meeting

Department of Taxation, 2220 West Broad Street, Richmond, Virginia. ☎

A meeting to adopt suggested ranges of values for agricultural, horticultural, forest and open-space land use and the use-value assessment program.

Contact: Ronald W. Wheeler, Executive Assistant, Department of Taxation, 3600 W. Broad St., Richmond, VA 23219, telephone (804) 367-6920.

STATE COUNCIL ON LOCAL DEBT

July 20, 1994 - 11 a.m. - Open Meeting

James Monroe Building, 101 N. 14th Street, 3rd Floor, Treasury Board Conference Room, Richmond, Virginia. ☎

A regular meeting subject to cancellation unless there

Calendar of Events

are action items requiring the council's consideration. Persons interested in attending should call one week prior to the meeting date to ascertain whether or not the meeting is to be held as scheduled.

Contact: Gary Ometer, Debt Manager, Department of the Treasury, P. O. Box 1879, Richmond, VA 23215, telephone (804) 225-4928.

COMMISSION ON LOCAL GOVERNMENT

July 11, 1994 - 10 a.m. - Open Meeting
General Assembly Building, 910 Capitol Street, 6th Floor, Speaker's Conference Room, Richmond, Virginia.

A regular meeting to consider such matters as may be presented. Persons desiring to participate in the commission's meeting and requiring special accommodations or interpreter services should contact the commission's office.

Contact: Barbara Bingham, Administrative Assistant, Commission on Local Government, 702 Eighth Street Office Building, Richmond, VA 23219, telephone (804) 786-6508 or (804) 786-1860/TDD ☎

LONGWOOD COLLEGE

Academic Affairs Committee

July 11, 1994 - 4 p.m. - Open Meeting
Longwood College, Ruffner Building, Farmville, Virginia. ☎

A meeting to conduct routine business of the Board of Visitors.

Contact: William F. Dorrill, President, Longwood College, 201 High St., Farmville, VA 23909-1899, telephone (804) 395-2001.

Student Affairs Committee

July 25, 1994 - 4 p.m. - Open Meeting
Longwood College, Ruffner Building, Farmville, Virginia. ☎

A meeting to conduct routine business of the Board of Visitors.

Contact: William F. Dorrill, President, Longwood College, 201 High St., Farmville, VA 23909-1899, telephone (804) 395-2001.

Board of Visitors

July 29, 1994 - 9 a.m. - Open Meeting
Longwood College, Ruffner Building, Virginia Room, Farmville, Virginia. ☎ (Interpreter for the deaf provided upon request)

A meeting to conduct routine business of the Board of Visitors.

Contact: William F. Dorrill, President, Longwood College, 201 High St., Farmville, VA 23909-1899, telephone (804) 395-2001.

STATE LOTTERY BOARD

July 25, 1994 - 10 a.m. - Open Meeting
State Lottery Department, 2201 West Broad Street, Richmond, Virginia. ☎ (Interpreter for the deaf provided upon request)

A regular monthly meeting. Business will be conducted according to items listed on the agenda which has not yet been determined. Two periods for public comment are scheduled.

Contact: Barbara L. Robertson, Lottery Staff Officer, State Lottery Department, 2201 W. Broad St., Richmond, VA 23220, telephone (804) 367-3106 or (804) 367-3000/TDD ☎

VIRGINIA MANUFACTURED HOUSING BOARD

† August 17, 1994 - 1 p.m. - Open Meeting
The Cavalier Hotel, Oceanfront at 42nd Street, Virginia Beach, Virginia. ☎ (Interpreter for the deaf provided upon request)

A regular monthly meeting.

Contact: Curtis L. McIver, Associate Director, Department of Housing and Community Development, Code Enforcement and Manufactured Housing Office, 501 N. 2nd St., Richmond, VA 23219-1321, telephone (804) 371-7160 or (804) 371-7089/TDD ☎

MARINE RESOURCES COMMISSION

† July 29, 1994 - 9:30 a.m. - Open Meeting
Marine Resources Commission, 2600 Washington Avenue, 4th Floor, Room 403, Newport News, Virginia. ☎ (Interpreter for the deaf provided upon request)

The commission will hear and decide marine environmental matters at 9:30 a.m.; permit applications for projects in wetlands, bottom lands, coastal primary sand dunes and beaches; appeals of local wetland board decisions; policy and regulatory issues.

The commission will hear and decide fishery management items at approximately noon. Items to be heard are as follows: regulatory proposals, fishery management plans, fishery conservation issues, licensing, and shellfish leasing.

Meetings are open to the public. Testimony is taken

under oath from parties addressing agenda items on permits and licensing. Public comments are taken on resource matters, regulatory issues and items scheduled for public hearing.

The commission is empowered to promulgate regulations in the areas of marine environmental management and marine fishery management.

Contact: Sandra S. Schmidt, Secretary to the Commission, Marine Resources Commission, P. O. Box 756, Newport News, VA 23607-0756, telephone (804) 247-8088, toll free 1-800-541-4646 or (804) 247-2292/TDD ☎

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES (BOARD OF)

August 12, 1994 – Written comments may be submitted through this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Medical Assistance Services intends to amend regulations entitled: **VR 460-03-3.1100. Amount, Duration and Scope of Services; VR 460-02-3.1300. Standards Established and Methods Used to Assure High Quality of Care; VR 460-02-4.1920. Methods and Standards Used to Establish Payment Rates – Other Types of Care; and VR 460-04-3.1300. Regulations for Outpatient Physical Rehabilitative Services: Physical Therapy and Related Services.** The purpose of this proposal is to amend the State Plan for Medical Assistance and VR 460-04-3.1300 concerning the authorization and utilization review of physical therapy and related services, and to provide guidelines for the provision of psychological and psychiatric services in schools.

DMAS has provided reimbursement for physical therapy and related services since 1978 under two major programs: general physical rehabilitative and intensive rehabilitative services. This regulation will allow DMAS to categorize general physical outpatient rehabilitation (physical therapy, occupational therapy, and speech-language pathology services) into two subgroups.

Physician orders are required and must be in place before any services are initiated. Guidelines are provided when physical therapy and related conditions are to be considered for termination regardless of the already preauthorized number of visits or services. Guidelines are also provided for psychological and psychiatric services, and school divisions are added as an entity which can provide these services. In addition, revisions are made to the intensive rehabilitation regulations by moving detailed language for these services from the State Plan to state-only regulations. Finally, language is added to the reimbursement (fee-for-service) methodology section of

the Plan to describe payment for physical therapy and related services that may be provided by schools and home health agencies. Language was added on the recommendation of the Health Care Financing Administration because this area had not been adequately described in the Plan previously.

Statutory Authority: § 32.1-325 of the Code of Virginia.

Written comments may be submitted through August 12, 1994, to Mary Chiles, Manager, Division of Quality Care Assurance, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219.

Contact: Victoria P. Simmons, Regulatory Coordinator, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 371-8850.

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August 26, 1994 – Written comments may be submitted through this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Medical Assistance Services intends to adopt regulations entitled: **VR 460-04-8.16. DMAS-122 Adjustment Process.** The purpose of this action is to establish and clarify by regulation the DMAS-122 adjustment process for Medicaid recipients in long-term care facilities. Specifically, the roles of the Department of Medical Assistance Services and the Department of Social Services will be clarified. This process is federally mandated and is not a new requirement.

Statutory Authority: § 32.1-325 of the Code of Virginia.

Written comments may be submitted through August 26, 1994, to Mary Chiles, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219

Contact: Victoria P. Simmons, Regulatory Coordinator, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 371-8850.

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August 26, 1994 – Written comments may be submitted through this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Medical Assistance Services intends to adopt regulations entitled: **VR 460-10-2500. Medicaid Financial Eligibility Requirements - Families and Children.** The purpose of this action is to promulgate state regulations which describe the methods and procedures to be used in setting standards and

Calendar of Events

determining eligibility for Aid to Families With Dependent Children-related medical assistance.

Because eligibility for receipt of Title XIX services is based on income and resources, when determining Medicaid eligibility it is necessary to determine the income and resources available to each individual in a family to determine whether that individual is eligible for Medicaid. Presently, Medicaid eligibility is determined in "family and children" cases by dividing the family unit into separate budget units when children have their own income to ensure that the income of the child is not deemed available to the support of his parent or his sibling. These regulations revise the methodologies for determining income and resource eligibility under Medicaid, including the financial responsibility of relatives, and for determining how the income and resources of members of families are to be considered during the determination of eligibility for Medicaid.

These proposed regulations track federal regulations published January 1, 1993, except in one significant area, "deeming," which is specifically prohibited under § 1902(a)(17)(D) of the Social Security Act. Only the income and resources of a parent for a child or of a spouse for a spouse may be deemed to be available if they are living together. In order to assure that the individual standards of Medicaid applicants are not reduced by the presence of any nonlegally responsible relative in the assistance unit, these individuals will be removed from the unit before the standards are prorated for individuals remaining in the unit.

Statutory Authority: § 32.1-325 of the Code of Virginia.

Written comments may be submitted through August 26, 1994, to Ann Cook, Eligibility Consultant, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219.

Contact: Victoria P. Simmons, Regulatory Coordinator, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 371-8850.

BOARD OF MEDICINE

Informal Conference Committee

† July 14, 1994 - 9 a.m. - Open Meeting

† August 5, 1994 - 9 a.m. - Open Meeting

The Tysons Westpark Hotel, 8401 Westpark Drive, McLean, Virginia. ☎

† July 28, 1994 - 9:30 a.m. - Open Meeting

Sheraton Inn, I-95 and Route 3, Commonwealth Room, Fredericksburg, Virginia. ☎

A meeting to inquire into allegations that certain

practitioners may have violated laws and regulations governing the practice of medicine and other healing arts in Virginia. The committee will meet in open and closed sessions pursuant to § 2.1-344 of the Code of Virginia. Public comment will not be received.

Contact: Karen W. Perrine, Deputy Executive Director, Discipline, Board of Medicine, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9908 or (804) 662-9943/TDD ☎

Advisory Committee on Optometry

July 22, 1994 - 10 a.m. - Public Hearing

Department of Health Professions, 6606 West Broad Street, 5th Floor, Board Room 2, Richmond, Virginia. ☎
(Interpreter for the deaf provided upon request)

The advisory committee will hold a public hearing to receive public comments regarding amendments to VR 465-09-01, Certification for Optometrists, to include the pharmaceutical agent "Levocabastine."

Contact: Eugenia K. Dorson, Deputy Executive Director, Discipline, Department of Health Professions, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9923 or (804) 662-7197/TDD ☎

DEPARTMENT OF MENTAL HEALTH, MENTAL RETARDATION AND SUBSTANCE ABUSE SERVICES (STATE BOARD OF)

July 27, 1994 - 10 a.m. - Open Meeting

Department of Mental Health, Mental Retardation and Substance Abuse Services, James Madison Building, 109 Governor Street, 13th Floor Conference Room, Richmond, Virginia. ☎

A regular monthly meeting. Agenda to be published on July 20. Agenda can be obtained by calling Jane Helfrich.

Tuesday: Informal Session - 8 p.m.

Wednesday: Committee Meetings - 9 a.m.

Regular Session - 10 a.m. See agenda for location.

Contact: Jane V. Helfrich, Board Administrator, State Mental Health, Mental Retardation and Substance Abuse Services Board, P. O. Box 1797, Richmond, VA 23214, telephone (804) 786-3921.

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† September 11, 1994 - Written comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Mental Health, Mental Retardation and Substance Abuse Services

Board intends to repeal regulations entitled: VR 470-01-01. **Public Participation Guidelines** and adopt regulations entitled: VR 470-01-01:1. **Public Participation Guidelines**. The purpose of this regulation is to adopt Public Participation Guidelines in conformance with § 9-6.14:7.1 of the Code of Virginia.

Statutory Authority: §§ 9-6.14:7.1 and 37.1-10 of the Code of Virginia.

Contact: Rubyjean Gould, Administrative Services Director, Department of Mental Health, Mental Retardation and Substance Abuse Services, P. O. Box 1797, Richmond, VA 23214, telephone (804) 786-3915.

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August 16, 1994 – Written comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Mental Health, Mental Retardation and Substance Abuse Services Board intends to repeal regulations entitled: VR 470-02-03. **Rules and Regulations for the Licensure of Private Psychiatric Hospitals**; VR 470-02-07. **Rules and Regulations for the Licensure of Correctional Psychiatric Facilities**; VR 470-02-08. **Rules and Regulations for the Licensure of Supported Residential Programs and Residential Respite Care/Emergency Services Facilities**; VR 470-02-09. **Rules and Regulations for the Licensure of Outpatient Facilities**; VR 470-02-10. **Rules and Regulations for the Licensure of Day Support Programs**; and VR 470-02-11. **Rules and Regulations for the Licensure of Residential Facilities and adopt regulations entitled: VR 470-02-13. Regulations for the Licensure of Facilities and Providers of Mental Health, Mental Retardation and Substance Abuse Services**. The purpose of these regulatory actions is to redraft and consolidate six current licensure regulations for all licensable facilities except residential facilities for children.

Statutory Authority: § 37.1-10(6) and Chapter 8 (§ 37.1-179 et seq.) of Title 37.1 of the Code of Virginia.

Written comments may be submitted until August 16, 1994, to Jacqueline M. Ennis, Assistant Commissioner, Department of Mental Health, Mental Retardation and Substance Abuse Services, P. O. Box 1797, Richmond, VA 23214.

Contact: Edith Smith, Manager, Licensure Operations, Department of Mental Health, Mental Retardation and Substance Abuse Services, P. O. Box 1797, Richmond, VA 23214, telephone (804) 371-6885.

State Human Rights Committee

July 15, 1994 - 9 a.m. – Open Meeting

Sheraton Inn, 2350 Seminole Trail, Route 29 North, Charlottesville, Virginia. ☎

A meeting to discuss human rights issues related to DMHMRSAS facilities, community programs and to allow general public to participate in the State Human Rights Committee process.

Contact: Elsie D. Little, Director, Office of Human Rights, 109 Governor St., 13th Floor, Richmond, VA 23219 or P. O. Box 1797, Richmond, VA 23214, telephone (804) 786-3988 or (804) 371-8977/TDD ☎

VIRGINIA MENTAL HEALTH PLANNING COUNCIL

† **July 28, 1994 - 10 a.m.** – Open Meeting

Henrico Area Mental Health and Retardation Services, 10299 Woodman Road, Glen Allen, Virginia. ☎ (Interpreter for the deaf provided upon request)

The council meets at least four times per year. Its mission is to advocate for a consumer and family oriented, integrated and community-based system of mental health care of the highest quality. The council continuously monitors and evaluates the implementation of the state's mental health plan.

Contact: Jeanette DuVal, Policy Analyst, Department of Mental Health, Mental Retardation and Substance Abuse Services, P. O. Box 1797, Richmond, VA 23214, telephone (804) 371-0359 or (804) 371-8977/TDD ☎

VIRGINIA MILITARY INSTITUTE

Board of Visitors

August 6, 1994 - 8:30 a.m. – Open Meeting

The Jefferson Hotel, Franklin and Adams Streets, Richmond, Virginia. ☎

A regular meeting of VMI Board of Visitors to include:

1. Election of President
2. Committee appointments
3. Committee reports

The Board of Visitors provides an opportunity for public comment at this meeting immediately after the Superintendent's comments (about 9 a.m.).

Contact: Colonel Edwin L. Dooley, Jr., Secretary to the Board, Superintendent's Office, Virginia Military Institute, Lexington, VA 24450, telephone (703) 464-7206 or FAX (703) 464-7660.

Calendar of Events

BOARD OF NURSING

July 11, 1994 - 9 a.m. - Open Meeting

Department of Health Professions, 6606 West Broad Street, Conference Rooms 2 and 3, Richmond, Virginia. ☒ (Interpreter for the deaf provided upon request)

Two Special Conference Committees will conduct informal conferences in the morning. A panel of the Board of Nursing will conduct formal hearings in the afternoon. Public comment will not be received.

Contact: Corinne F. Dorsey, R.N., Executive Director, Board of Nursing, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9909 or (804) 662-7197/TDD ☎

July 12, 1994 - 8:30 a.m. - Open Meeting

July 13, 1994 - 8:30 a.m. - Open Meeting

Department of Health Professions, 6606 West Broad Street, Conference Room 2, Richmond, Virginia. ☒ (Interpreter for the deaf provided upon request)

A regular meeting to consider matters relating to nursing education programs, discipline of licensees, licensure by examination and other matters under the jurisdiction of the board. Public comment will be received during an open forum session beginning at 11 a.m. on Tuesday, July 12, 1994.

Contact: Corinne F. Dorsey, R.N., Executive Director, Board of Nursing, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9909 or (804) 662-7197/TDD ☎

July 14, 1994 - 8:30 a.m. - Open Meeting

Department of Health Professions, 6606 West Broad Street, Conference Room 2, Richmond, Virginia. ☒ (Interpreter for the deaf provided upon request)

A panel of the Board of Nursing will conduct formal hearings. If the agenda is not filled with formal hearings, two Special Conference Committees will conduct informal conferences as time permits. Public comment will not be received.

Contact: Corinne F. Dorsey, R.N., Executive Director, Board of Nursing, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9909 or (804) 662-7197/TDD ☎

COMMITTEE OF THE JOINT BOARDS OF NURSING AND MEDICINE

July 29, 1994 - 9 a.m. - Open Meeting

Department of Health Professions, 6606 West Broad Street, Conference Room 2, Richmond, Virginia. ☒ (Interpreter for the deaf provided upon request)

Three members will conduct informal conferences

from 9 a.m. until 12:30 p.m. At 1:30 p.m., the full committee will consider matters related to the licensure of nurse practitioners. A review of comments on existing regulations received prior to the April 15, 1994, deadline will occur and plans will be made to complete the biennial review of the Regulations Governing the Licensure of Nurse Practitioners. Public comment will be received at 3 p.m.

Contact: Corinne F. Dorsey, R.N., Executive Director, Board of Nursing, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9909 or (804) 662-7197/TDD ☎

POLYGRAPH EXAMINERS ADVISORY BOARD

July 26, 1994 - 10 a.m. - Open Meeting

Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia. ☒

The meeting is for the purpose of administering the polygraph examiners licensing examination to eligible polygraph examiner interns and to consider other matters which may require board action.

Contact: Nancy T. Feldman, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8590.

BOARD OF PROFESSIONAL COUNSELORS

† July 25, 1994 - 9 a.m. - Open Meeting

† July 25, 1994 - 11 a.m. - Open Meeting

† July 25, 1994 - 1 p.m. - Open Meeting

Department of Health Professions, 6606 West Broad Street, Richmond, Virginia. ☒

Informal conferences. Public comment will not be received.

Contact: Evelyn B. Brown, Executive Director or Bernice Parker, Administrative Assistant, Department of Health Professions, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9967.

BOARD OF PSYCHOLOGY

July 19, 1994 - 10 a.m. - Open Meeting

Department of Health Professions, 6606 West Broad Street, 5th Floor, Room 1, Richmond, Virginia. ☒

A meeting to conduct general board business. Public comment will be received.

Contact: Evelyn Brown, Executive Director or Jane Ballard, Administrative Assistant, Board of Psychology, 6606 W. Broad St., Richmond, VA 23230-1717, telephone

(804) 662-9913.

Credentials Committee

July 19, 1994 - 8:30 a.m. — Open Meeting
Department of Health Professions, 6606 West Broad Street,
5th Floor, Room 4, Richmond, Virginia. ☎

The Credentials Committee will conduct an Informal Credentials Conference in accordance with §§ 9-6.14:11 and 54.1-2400(7) of the Code of Virginia to determine the eligibility of an applicant for program of study acceptance. No public comment will be received.

Contact: Evelyn Brown, Executive Director or Jane Ballard, Administrative Assistant, Board of Psychology, 6606 W. Broad St., Richmond, VA 23230-1717, telephone (804) 662-9913.

BOARD OF PROFESSIONAL AND OCCUPATIONAL REGULATION

July 11, 1994 - 10 a.m. — Open Meeting
Department of Professional and Occupational Regulation,
3600 West Broad Street, Richmond, Virginia. ☎

A regular quarterly meeting of the board. Agenda items include Public Participation Guidelines, board member liaisons, hearing dates for locksmith study, and final discussion of property manager study results.

Contact: Joyce K. Brown, Secretary to the Board, Board of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8564 or (804) 367-9753/TDD ☎

REAL ESTATE APPRAISER BOARD

July 18, 1994 — Written comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Real Estate Appraiser Board intends to amend regulations entitled: **VR 583-01-03. Real Estate Appraiser Board Rules and Regulations.** The purpose of the proposed amendments is to achieve consistency with current federal standards and guidelines, allow for a renewal grace period, permit reinstatement, reflect current board policy, and improve current continuing education requirements.

Statutory Authority: §§ 54.1-2013, 54.1-2014, and 54.1-2016 of the Code of Virginia.

Contact: Karen W. O'Neal, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-0500.

July 26, 1994 - 10 a.m. — Open Meeting

Department of Professional and Occupational Regulation,
3600 West Broad Street, Richmond, Virginia. ☎

A general business meeting. Persons desiring to participate in the meeting and requiring special accommodations or interpretive services should contact Karen W. O'Neal. The department fully complies with the Americans with Disabilities Act. Please notify the department of your request for accommodation at least two weeks in advance for consideration of your request.

Contact: Karen W. O'Neal, Assistant Director, Real Estate Appraiser Board, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-0500 or (804) 367-9753/TDD ☎

Complaints Committee

August 31, 1994 - 10 a.m. — Open Meeting
Department of Professional and Occupational Regulation,
3600 West Broad Street, Richmond, Virginia. ☎

A meeting to review complaints. Persons desiring to participate in the meeting and requiring special accommodations or interpretive services should contact Karen W. O'Neal. The department fully complies with the Americans with Disabilities Act. Please notify the department of your request for accommodation at least two weeks in advance for consideration of your request.

Contact: Karen W. O'Neal, Assistant Director, Real Estate Appraiser Board, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-0500 or (804) 367-9753/TDD ☎

RECYCLING MARKETS DEVELOPMENT COUNCIL

July 14, 1994 - 10 a.m. — Open Meeting
State Capitol Building, House Room 1, North Hall,
Richmond, Virginia. ☎

The meeting will include: (i) a presentation by council members; (ii) election of chairman; (iii) Department of Environmental Quality status report on state recycling; (iv) review draft of mission statement; and (v) plan for action.

Contact: Paddy Katzen, Special Assistant to the Secretary for Natural Resources, Department of Environmental Quality, 629 E. Main St., Richmond, VA 23219, telephone (804) 762-4488.

BOARD OF REHABILITATIVE SERVICES

July 28, 1994 - 10 a.m. — Open Meeting
Department of Rehabilitative Services, 8004 Franklin Farms Drive, Richmond, Virginia.

Calendar of Events

A regular monthly business meeting.

Contact: Ronald C. Gordon, Commissioner, Board of Rehabilitative Services, 8004 Franklin Farms Dr., Richmond, VA 23230, telephone (804) 662-7010, toll free 1-800-552-5019/TDD and Voice or (804) 662-9040/TDD ☎

VIRGINIA RESOURCES AUTHORITY

July 12, 1994 - 9:30 a.m. — Open Meeting
Virginia Resources Authority, The Mutual Building, 909 East Main Street, Board Room, Suite 607, Richmond, Virginia.

The board will meet to approve minutes of the meeting of June 14, 1994; to review the authority's operations for the prior months and to consider other matters and take other actions as it may deem appropriate. The planned agenda of the meeting will be available at the offices of the authority one week prior to the date of the meeting. Public comments will be received at the beginning of the meeting.

Contact: Shockley D. Gardner, Jr., Virginia Resources Authority, 909 E. Main St., Suite 607, Richmond, VA 23219, telephone (804) 644-3100 or FAX (804) 644-3109.

August 9, 1994 - 9:30 a.m. — Open Meeting
Virginia Resources Authority, The Mutual Building, 909 East Main Street, Board Room, Suite 607, Richmond, Virginia.

The board will meet to approve minutes of the meeting of July 12, 1994; to review the authority's operations for the prior months and to consider other matters and take other actions as it may deem appropriate. The planned agenda of the meeting will be available at the offices of the authority one week prior to the date of the meeting. Public comments will be received at the beginning of the meeting.

Contact: Shockley D. Gardner, Jr., Virginia Resources Authority, 909 E. Main St., Suite 607, Richmond, VA 23219, telephone (804) 644-3100 or FAX (804) 644-3109.

SEWAGE HANDLING AND DISPOSAL APPEALS REVIEW BOARD

August 10, 1994 - 10 a.m. — Open Meeting
General Assembly Building, 910 Capitol Street, Senate Room A, Richmond, Virginia. ☒

A meeting to hear all administrative appeals of denials of onsite sewage disposal systems permits pursuant to §§ 32.1-166.1 et seq. and 9-6.14:12 of the Code of Virginia and VR 355-34-02.

Contact: Constance G. Talbert, Secretary to the Board, 1500 E. Main St., P.O. Box 2448, Suite 117, Richmond, VA

23218, telephone (804) 786-1750.

DEPARTMENT OF SOCIAL SERVICES (STATE BOARD OF)

July 20, 1994 - 1:30 p.m. — Open Meeting
July 21, 1994 - 9 a.m. — Open Meeting (if necessary)
Department of Social Services, 730 East Broad Street, Richmond, Virginia. ☒

A work session and formal business meeting.

Contact: Phyllis Sisk, Special Assistant to the Commissioner, Department of Social Services, 730 E. Broad St., Richmond, VA 23219, telephone (804) 692-1900, toll free 1-800-552-3431 or 1-800-552-7096/TDD ☎

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August 13, 1994 — Written comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Board of Social Services intends to repeal regulations entitled: **VR 615-01-01. Public Participation Guidelines.** The purpose of this action is to repeal existing public participation guidelines.

Statutory Authority: § 63.1-25 of the Code of Virginia.

Contact: Margaret J. Friedenberg, Policy Analyst, Department of Social Services, 730 E. Broad St., Richmond, VA 23219, telephone (804) 692-1820.

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August 13, 1994 — Written comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Board of Social Services intends to adopt regulations entitled: **VR 615-01-01:1. Public Participation Guidelines.** This regulation describes the ways in which the state board and department will solicit and consider public comments.

Statutory Authority: § 63.1-25 of the Code of Virginia.

Contact: Margaret J. Friedenberg, Policy Analyst, Department of Social Services, 730 E. Broad St., Richmond, VA 23219, telephone (804) 692-1820.

BOARD OF SOCIAL WORK

† **July 22, 1994 - 9 a.m. — Open Meeting**
† **July 22, 1994 - 11 a.m. — Open Meeting**
Department of Health Professions, 6606 West Broad Street,

4th Floor, Richmond, Virginia. ☒

Informal conferences. Public comment will not be received.

Contact: Evelyn B. Brown, Executive Director or Bernice Parker, Administrative Assistant, Department of Health Professions, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9967.

COMMONWEALTH TRANSPORTATION BOARD

† **July 20, 1994 - 2 p.m. – Open Meeting**
Department of Transportation, 1401 East Broad Street, Richmond, Virginia. ☒ (Interpreter for the deaf provided upon request)

A work session of the Commonwealth Transportation Board and the Department of Transportation staff.

Contact: Robert E. Martinez, Secretary of Transportation, 1401 E. Broad St., Richmond, VA 23219, telephone (804) 786-8032.

† **July 21, 1994 - 10 a.m. – Open Meeting**
Department of Transportation, 1401 East Broad Street, Richmond, Virginia. ☒ (Interpreter for the deaf provided upon request)

A monthly meeting of the board to vote on proposals presented regarding bids, permits, additions and deletions to the highway system and any other matters requiring board approval.

Public comment will be received at the outset of the meeting on items on the meeting agenda for which the opportunity for public comment has not been afforded the public in another form. Remarks will be limited to five minutes. Large groups are asked to select one individual to speak for the group. The board reserves the right to amend these conditions.

Contact: Robert E. Martinez, Secretary of Transportation, 1401 E. Broad St., Richmond, VA 23219, telephone (804) 786-8032.

TREASURY BOARD

July 20, 1994 - 9 a.m. – Open Meeting
James Monroe Building, 101 N. 14th Street, Treasury Board Room, 3rd Floor, Richmond, Virginia. ☒

A regular meeting.

Contact: Gloria J. Hatchel, Administrative Assistant to the Treasurer, Department of the Treasury, 101 N. 14th St., 3rd Floor, Richmond, VA 23219, telephone (804) 371-6011.

VIRGINIA RACING COMMISSION

July 13, 1994 - 9:30 a.m. – Open Meeting
State Corporation Commission, Tyler Building, 1300 East Main Street, Richmond, Virginia. ☒

A regular meeting including a discussion of the limited license renewal by the Race Committee of Morven Park.

Contact: William H. Anderson, Policy Analyst, Vi Commission, P. O. Box 1123, Richmond, VA 23208, telephone (804) 371-7363.

DEPARTMENT FOR THE VISUALLY HANDICAPPED

Advisory Committee On Services

July 16, 1994 - 11 a.m. – Open Meeting
Department for the Visually Handicapped, 397 Azalea Avenue, Richmond, Virginia. ☒ (Interpreter for the deaf provided upon request)

The committee meets quarterly to advise the Virginia Board for the Visually Handicapped on matters related to services for blind and visually impaired citizens of the Commonwealth.

Contact: Barbara G. Tyson, Executive Secretary Senior, Department for the Visually Handicapped, 397 Azalea Ave., Richmond, VA 23227, telephone (804) 371-3140 or toll free 1-800-622-2155.

Vocational Rehabilitation Advisory Council

September 17, 1994 - 10:30 a.m. – Open Meeting
Department for the Visually Handicapped, 397 Azalea Avenue, Richmond, Virginia. ☒ (Interpreter for the deaf provided upon request)

The council meets quarterly to advise the Department for the Visually Handicapped on matters related to vocational rehabilitation services for the blind and visually impaired citizens of the Commonwealth.

Request deadline for interpreter services is September 2, 1994, 3:30 p.m.

Contact: James G. Taylor, Vocational Rehabilitation Program Specialist, Department for the Visually Handicapped, 397 Azalea Ave., Richmond, VA 23227, telephone (804) 371-3140 or toll free 1-800-622-2155.

VIRGINIA VOLUNTARY FORMULARY BOARD

July 21, 1994 - 10:30 a.m. – Open Meeting
Washington Building, 1100 Bank Street, 2nd Floor Board Room, Richmond, Virginia.

Calendar of Events

A meeting to consider public hearing comments and review new product data for products pertaining to the Virginia Voluntary Formulary.

Contact: James K. Thomson, Director, Bureau of Pharmacy Services, 109 Governor St., Room B1-9, Richmond, VA 23219, telephone (804) 786-4326.

VIRGINIA WASTE MANAGEMENT BOARD

† **July 18, 1994 - 10 a.m.** – Open Meeting
Department of Environmental Quality, 4900 Cox Road, Board Room, Glen Allen, Virginia.

A regular meeting.

Contact: Cindy Berndt, Office of Regulatory Services, Department of Environmental Quality, P. O. Box 10009, Richmond, VA 23240, telephone (804) 762-4378.

BOARD FOR WASTE MANAGEMENT FACILITY OPERATORS

NOTE: CHANGE IN MEETING TIME

July 21, 1994 - Noon – Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, Conference Room 4A, Richmond, Virginia. ☒

A general meeting.

Contact: David E. Dick, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8595 or (804) 367-9753/TDD ☎

STATE WATER CONTROL BOARD

July 14, 1994 - 7 p.m. – Public Hearing
North Fork Middle School, Rt. 730, Mt. Jackson, Virginia. ☒

The State Water Control Board will hold a public hearing to receive comments on the proposed Virginia Pollutant Discharge Elimination System (VPDES) Permit No. VA0088285 for Wunder Orchards STP, P. O. Box 817, Mt. Jackson, VA. The purpose of this hearing is to receive comments on the proposed issuance or denial of the permit and the effect of the discharge on water quality or beneficial uses of state waters.

Contact: Doneva A. Dalton, Hearings Reporter, Department of Environmental Quality, Office of Regulatory Services, P. O. Box 10009, Richmond, VA 23240, telephone (804) 762-4379 or (804) 762-4021/TDD ☎

† **July 26, 1994 - 7 p.m.** – Public Hearing

Mary Bethune Administrative Complex, Cowford Road, Halifax County Board of Supervisors Meeting Room, 2nd Floor, Halifax, Virginia. ☒

The State Water Control Board will hold a public hearing to receive comments on the issuance or denial of Virginia Pollutant Abatement Permit No. VPA000547 for Brian Farm, Rt. 720, Scottsburg, VA 24589. The waste generated by a finishing swine operation will be land applied at agronomic rates to approved sites in Halifax County. There will be no discharge allowed by the permit.

Contact: Doneva A. Dalton, Hearings Reporter, Department of Environmental Quality, P. O. Box 10009, Richmond, VA 23240, telephone (804) 762-4379.

BOARD FOR WATERWORKS AND WASTEWATER WORKS OPERATORS

July 20, 1994 - 8:30 a.m. – Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia. ☒

A meeting to conduct regulatory review and other matters which may require board action.

Contact: Nancy T. Feldman, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8590.

LEGISLATIVE

JOINT SUBCOMMITTEE STUDYING THE VIRGINIA CONSUMER PROTECTION ACT

† **July 22, 1994 - 10 a.m.** – Open Meeting
General Assembly Building, 910 Capitol Street, House Room C, Richmond, Virginia.

The joint subcommittee will study several issues related to the Virginia Consumer Protection Act including investigation, enforcement, coverage, and private rights of action. Anticipated witnesses during the study period include representatives for the Office of the Attorney General and Department of Agriculture and Consumer Services, attorneys for the Commonwealth, local government protection officials and members of the public.

Contact: Diane Horvath, Staff Attorney, Division of Legislative Services, 910 Capitol St., Richmond, VA 23219, telephone (804) 786-3591.

JOINT LEGISLATIVE AUDIT AND REVIEW COMMISSION

July 11, 1994 - 9:30 a.m. – Open Meeting

General Assembly Building, Senate Room A, 910 Capitol Street, Richmond, Virginia 23219

Staff briefing on Virginia Retirement System oversight.

Contact: Philip A. Leone, Director, Joint Legislative Audit and Review Commission, General Assembly Building, 910 Capitol Street, Suite 1100, Richmond, VA 23219, telephone (804) 786-1258.

VIRGINIA HOUSING STUDY COMMISSION

July 11, 1994 - 10 a.m. – Public Hearing

Administration Building, Loudoun County Board of Supervisors Board Room, 18 North King Street, Leesburg, Virginia.

† August 11, 1994 - 10 a.m. – Public Hearing

Clinch Valley College, Theatre/Drama Building, Wise, Virginia.

Public hearings will be held on the following issues:

HJR 241 pursuant to the health and safety issues of residential rental property not covered under the Virginia Residential Landlord and Tenant Act.

HJR 251 pursuant to the need for legislation to authorize local governments to inspect rental property between occupancies to ensure compliance with applicable state codes and their enforcement authority when violations are found.

HJR 489 (1993) pursuant to blighted and deteriorated neighborhoods in the Commonwealth.

HJR 163 (1992) pursuant to homelessness in Virginia, specifically, appeal bond reform (HB 501) and terrorized tenants (HB 1381).

Other issues related to affordable housing in Virginia.

Persons wishing to speak should contact Nancy M. Ambler, Esquire, Executive Director, Virginia Housing Study Commission, 601 S. Belvidere St., Richmond, VA 23220, telephone (804) 225-3797.

Contact: Nancy D. Blanchard, Virginia Housing Study Commission, 601 S. Belvidere St., Richmond, VA 23220, telephone (804) 782-1986, Ext. 565.

JOINT SUBCOMMITTEE STUDYING THE CONTINUATION OF SERVICES FOR YOUNG ADULTS WHO ARE EXITING PUBLICLY FUNDED SERVICE PROGRAMS

† August 2, 1994 - 10 a.m. – Open Meeting

General Assembly Building, 910 Capitol Street, House Room C, Richmond, Virginia.

This subcommittee will meet to set its agenda for the interim and to hear from some of the servicing programs.

Contact: Brenda Edwards, Research Associate, Division of Legislative Services, 910 Capitol Street, Richmond, VA 23219, telephone (804) 786-3591.

STATE WATER COMMISSION

August 8, 1994 - 10 a.m. – Open Meeting

General Assembly Building, 910 Capitol Street, House Room C, Richmond, Virginia.

The commission will be reviewing options for role in state water development and utilization and hearing from some localities on their views.

Contact: Shannon Varner, Staff Attorney, Division of Legislative Services, 910 Capitol Street, Richmond, VA 23219, telephone (804) 786-3591.

CHRONOLOGICAL LIST

OPEN MEETINGS

July 11

Alcoholic Beverage Control Board
ASAP Policy Board - Valley
Audit and Review Commission, Joint Legislative
Cosmetology, Board for
† Health Professions, Board of
- Regulatory Research Committee
Local Government, Commission on
Longwood College
- Academic Affairs Committee
Nursing, Board of
Professional and Occupational Regulation, Board of

July 12

Higher Education for Virginia, State Council of
Nursing, Board of
Resources Authority, Virginia

July 13

† Contractors, Board for

Calendar of Events

Nursing, Board of
Virginia Racing Commission

July 14

† Air Pollution Control Board, State
Child Day-Care Council
Game and Inland Fisheries, Department of
† Health, Department of
- HIV Prevention Community Planning Committee,
Virginia
† Medicine, Board of
Nursing, Board of
Recycling Markets Development Council

July 15

† Conservation and Recreation, Department of
- Falls of the James Scenic River Advisory Board
Game and Inland Fisheries, Department of
† Information Management, Council on
- Local Government Advisory Committee
Interdepartmental Regulation of Children's Residential
Facilities, Coordinating Committee for
Mental Health, Mental Retardation and Substance
Abuse Services, Department of
- State Human Rights Committee

July 16

Visually Handicapped, Department for the
- Advisory Committee on Services

July 18

Accountancy, Board for
† Emergency Planning Committee - Local, Prince
William County, Manassas City and Manassas Park
City
† Waste Management Board, Virginia

July 19

Accountancy, Board for
† Housing Development Authority, Virginia
Labor and Industry, Department of
- Safety and Health Codes Board
Psychology, Board of
- Credentials Committee

July 20

Chesapeake Bay Local Assistance Board
- Regulatory Committee
Community Colleges, State Board for
Corrections, Board of
Local Debt, State Council on
Social Services, State Board of
† Transportation Board, Commonwealth
Treasury Board
Waterworks and Wastewater Works Operators, Board
for

July 21

Agriculture and Consumer Services, Department of
- Pesticide Control Board
Chesapeake Bay Local Assistance Board

- Central Area Review Committee
- Northern Area Review Committee
Community Colleges, State Board for
† Environmental Quality, Department of
- Technical Advisory Committee
† Health, Department of
- Commissioner's Waterworks Advisory Committee
Social Services, State Board of
† Transportation Board, Commonwealth
Voluntary Formulary Board, Virginia
Waste Management Facility Operators, Board for

July 22

Agriculture and Consumer Services, Department of
- Pesticide Control Board
† Building Code Technical Review Board, State
† Consumer Protection Act, Joint Subcommittee
Studying The Virginia
† Social Work, Board of

July 25

Alcoholic Beverage Control Board
Longwood College
- Student Affairs Committee
Lottery Department, State
† Professional Counselors, Board of

July 26

† Agriculture and Consumer Services, Board of
Polygraph Examiners Advisory Board
Real Estate Appraiser Board
† Water Control Board, State

July 27

Chesapeake Bay Local Assistance Board
- Southern Area Review Committee
† Criminal Justice Services, Department of
- Private Security Services Advisory Board
Mental Health, Mental Retardation and Substance
Abuse Services Board, State

July 28

† Compensation Board
Education, Board of
Health, State Board of
- Food Service Advisory Committee
† Medicine, Board of
- Informal Conference Committee
† Mental Health Planning Council, Virginia
Rehabilitative Services, Board of

July 29

Longwood College
- Board of Visitors
† Marine Resources Commission
Nursing and Medicine, Committee of the Joint Boards
of

July 30

† Natural History, Virginia Museum of
- Board of Trustees

August 2

Hopewell Industrial Safety Council
† Publicly Funded Programs, Joint Subcommittee
Studying The Continuation of Services for Young
Adults Who Are Exiting

August 5

† Board of Medicine
- Informal Conference Committee

August 6

Virginia Military Institute
- Board of Visitors

August 8

Alcoholic Beverage Control Board
Barbers, Board for
Water Commission, State

August 9

Resources Authority, Virginia

August 10

Sewage Handling and Disposal Appeals Review Board

August 11

† Environmental Quality, Department of
- Technical Advisory Committee
† Geology, Board for
† Health, Department of
- HIV Prevention Community Planning Committee,
Virginia

August 12

† Geology, Board for
† Land Evaluation Advisory Council, State

August 17

† Corrections, Board of
† Manufactured Housing Board, Virginia

August 18

Chesapeake Bay Local Assistance Board
- Central Area Review Committee
- Northern Area Review Committee
Environmental Quality, Department of
- Pollution Prevention Advisory Committee

August 22

Alcoholic Beverage Control Board
† Agricultural Council, Virginia

August 24

Chesapeake Bay Local Assistance Board
- Southern Area Review Committee

August 25

† Compensation Board

August 30

Health Services Cost Review Council

August 31

Real Estate Appraiser Board
- Complaints Committee

September 1

† Environmental Quality, Department of
- Technical Advisory Committee

September 6

Hopewell Industrial Safety Council

September 7

Alcoholic Beverage Control Board

September 13

† Emergency Planning Committee - Local, County of
Montgomery/Town of Blacksburg

September 14

Environmental Quality, Department of
- Work Group on Detection/Quantitation Levels

September 17

Visually Handicapped, Department for the
- Vocational Rehabilitation Advisory Council

September 19

Alcoholic Beverage Control Board

September 21

† Asbestos Licensing Board, Virginia

September 28

Chesapeake Bay Local Assistance Board
- Southern Area Review Committee

PUBLIC HEARINGS

July 11

Housing Study Commission, Virginia

July 14

Water Control Board, State

July 22

Medicine, Board of
- Advisory Committee on Optometry

July 26

† Water Control Board, State

July 28

† Corporation Commission, State

August 1

† Health, Department of

August 3

Calendar of Events

Health, Department of

August 11

† Housing Study Commission, Virginia

September 20

† Auctioneers Board

October 5

Criminal Justice Services, Department of (Board)